



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-28022023-243955
CG-DL-W-28022023-243955

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 7] नई दिल्ली, फरवरी 12—फरवरी 18, 2023, शनिवार/ माघ 23—माघ 29, 1944
No. 7] NEW DELHI, FEBRUARY 12—FEBRUARY 18, 2023, SATURDAY/ MAGHA 23—MAGHA 29, 1944

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 15 फरवरी, 2023

का.आ. 176.—निक्षेप बीमा और प्रत्यय गारंटी निगम अधिनियम, 1961 (1961 का 47) की धारा 6 की उप-धारा (2) की धारा (ii) के साथ पठित धारा 6 की उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा श्री शाजी के. वी., अध्यक्ष, राष्ट्रीय कृषि और ग्रामीण विकास बैंक को उनके नामांकन की अधिसूचना की तारीख से तीन साल की अवधि के लिए या अगले आदेश तक, जो भी पहले हो, निक्षेप बीमा और प्रत्यय गारंटी निगम (डीआईसीजीसी) के निदेशक मण्डल में निदेशक नामित करती है।

[फा. सं. 8/3/2017-बीओ-II]

सुषमा किंडो, संयुक्त निदेशक

MINISTRY OF FINANCE**(Department of Financial Services)**

New Delhi, the 15th February, 2023

S.O. 176.—In exercise of the powers conferred by clause (d) of sub-section (1) of Section 6 read with clause (ii) of sub-section (2) of section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), the Central Government hereby nominates Shri Shaji K.V., Chairman, National Bank for Agriculture and Rural Development as a Director on the Board of Directors of the Deposit Insurance and Credit Guarantee Corporation (DICGC) for a period of three years from the date of notification of his nomination or until further orders, whichever is earlier.

[F. No. 8/3/2017-BO. II]

SUSHMA KINDO, Jt. Director

कार्मिक, लोक शिकायत और पेंशन मंत्रालय**(कार्मिक और प्रशिक्षण विभाग)**

नई दिल्ली, 3 फरवरी, 2023

का.आ. 177.—केंद्र सरकार, राजभाषा [संघ के शासकीय प्रयोजनों के लिए प्रयोग] नियमावली, 1976 (यथा संशोधित 1987, 2007 और 2011) के नियम 10 के उप-नियम (4) के अनुसरण में कार्मिक और प्रशिक्षण विभाग के अधीनस्थ कार्यालय केंद्रीय अन्वेषण ब्यूरो के अधीन निम्नलिखित कार्यालयों, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी भाषा का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

1. विशेष एकक, कोलकाता
2. आर्थिक अपराध शाखा-IV, कोलकाता
3. बैंकिंग प्रतिभूति एवं धोखाधड़ी शाखा, कोलकाता
4. भ्रष्टाचार निरोधक शाखा, श्रीनगर

[फा. सं. ई.-11017/1/2022-हिंदी]

एस. डी. शर्मा, संयुक्त सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**(Department of Personnel and Training)**

New Delhi, the 3rd February, 2023

S.O. 177.—Central Government in pursuance of Sub-Rule (4) of Rule 10 of official languages [Use for official purpose of union] Rules, 1976 (as amended in 1987, 2007 and 2011) hereby notifies the following offices under the Central Bureau of Investigation, a subordinate office of Department of Personnel and Training whose more than 80 percent staff has acquired working knowledge of Hindi language:-

1. Special Unit, Kolkata
2. Economic Offences Branch –IV, Kolkata
3. Bank Securities and Fraud Branch, Kolkata
4. Anti Corruption Branch, Srinagar

[F. No. E-11017/1/2022-Hindi]

S. D. SHARMA, Jt. Secy.

**कृषि एवं किसान कल्याण मंत्रालय
(कृषि अनुसंधान एवं शिक्षा विभाग)**

नई दिल्ली, 14 फरवरी, 2023

का.आ. 178.—केन्द्रीय सरकार, कृषि एवं किसान कल्याण मंत्रालय, कृषि अनुसंधान एवं शिक्षा विभाग, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में भा.कृ.अ.प.-राष्ट्रीय माँस अनुसंधान केन्द्र, चेंगिचेर्ला, पोस्ट बॉक्स सं.-19, बोडुप्पल, हैदराबाद-500092 को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

[फा. सं. 13-05/2020-हिन्दी]

बलराज, अवर सचिव

MINISTRY OF AGRICULTURE AND FARMER WELFARE

(Department of Agricultural Research and Education)

New Delhi, the 14th February, 2023

S.O. 178.—In pursuance of sub-Rule (4) of Rule 10 of the Official Language (use for official purpose of the Union) Rules 1976, the Central Government, Ministry of Agriculture & Farmer Welfare, Department of Agricultural Research & Education hereby notifies the I.C.A.R - National Research Centre on Meat, Chengicherla, Post Box No.-19, Boduppal, Hyderabad-500092, where more than 80% of staff have acquired the working knowledge of Hindi.

[F. No. 13-05/2020-Hindi]

BALRAJ, Under Secy.

**वाणिज्य एवं उद्योग मंत्रालय
(वाणिज्य विभाग)**

नई दिल्ली, 15 फरवरी, 2023

का.आ. 179.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स क्वालिटी सर्विसेज एंड सोलुशन्स (गोवा), घर सं.- 1576, सुकलभटवाडी, एट पोस्ट: रेडी, तालुक : वेंगुर्ला, जिला: सिंधुदुर्ग, महाराष्ट्र- 416517, (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संका.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-1, अर्थात् लौह अयस्क और बॉक्साइट के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन रेडी पत्तन और जयगढ़ पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-1 का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी;
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/1/2023 - निर्यात निरीक्षण]

एम. बालाजी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 15th February, 2023

S.O. 179.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognizes, M/s Quality Services and Solutions (Goa), H. No. -1576, Sukalbhatwadi, At Post: Redi, Taluk: Vengurla, District: Sindhudurg, Maharashtra-416517, (hereinafter referred to as the said agency), as an agency for a period of three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely Iron Ore and Bauxite, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the official Gazette *vide* number S.O.3975 dated 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Redi Port and Jaigad Port, subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965;
- (ii) the said agency, in performance of their function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/1/2023 - Export Inspection]

M. BALAJI, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 14 फरवरी, 2023

का.आ. 180.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में पेट्रोलियम और प्राकृतिक गैस मंत्रालय के प्रशासनिक नियंत्रणाधीन सार्वजनिक क्षेत्र के उपक्रम के निम्नलिखित कार्यालयों, जिनके 80 या अधिक प्रतिशत कर्मचारी वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:-

- | | |
|---|--|
| 1. गेल गैस लिमिटेड, 3सरी मंजिल,
एमएस कॉम्प्लैक्स, एस-44, न्यू बेल रोड,
बैंगलूरु-560054 | 2. गेल गैस लिमिटेड,
ए-7, 1ली मंजिल, गंगोत्री अपार्टमेंट,
एबी रोड, देवास-455001 |
| 3. गेल गैस लिमिटेड,
प्लॉट नं. 2241, एचआईआईडीसी, औद्योगिक क्षेत्र,
फेज-II, बिस्वामिल-जयेशी रोड, राय
सोनीपत-131029 | 4. हल्दिया रिफाइनरी टर्मिनल,
इंडियन ऑयल कॉर्पोरेशन लिमिटेड (विपणन प्रभाग),
पीओ हल्दिया रिफाइनरी,
जिला मिदनापुर (पूर्व) – 721606 |
| 5. हल्दिया रिफाइनरी बी,
इंडियन ऑयल कॉर्पोरेशन लिमिटेड (विपणन प्रभाग),
रिवर रिंग रोड, राधा माधव चक, पीओ खर्जाचक,
जिला मिदनापुर हल्दिया – 721602 | 6. भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड,
प्रादेशिक कार्यालय, रिटेल जमशेदपुर बर्मासाइन,
गुडशेड रोड, जमशेदपुर, झारखंड - 831007 |

[फा. सं. 11012/3/2021-रा.भा.]

शोभना श्रीवास्तव, उप निदेशक (राजभाषा)

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 14th February, 2023

S.O. 180.—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976, the central Government hereby notifies the following offices of the Public Sector undertaking under the administrative control of the Ministry of Petroleum & Natural Gas, in which 80 or more percent of the staff have acquired working Knowledge of Hindi:-

- | | |
|---|--|
| <p>1. Gail Gas Limited,
3rd Floor, MS Complex, S-44,
New Bel Road,
Bangalore – 560054</p> | <p>2. Gail Gas Limited,
A-7, 1st Floor, Gangotri Apartment, AB
Road, Dewas -455001</p> |
| <p>3. Gail Gas Limited,
Plot no. 2241, HIIDC, Industrial Area,
Phase-II, Biswamil-Jatheri Road, Rai
Sonapat-131029</p> | <p>4. Haldia Refinery Terminal,
Indian Oil Corporation Limited
(Marketing Division), PO Haldia Refinery,
Distt. Midnapore (East) – 721606</p> |
| <p>5. Haldia Refinery B,
Indian Oil Corporation Limited
(Marketing Division), River Ring
Road, Radha Madhav Chak,
PO Khjanchak, Distt. Midnapore
Haldia – 721602</p> | <p>6. Bharat Petroleum Corporation Limited,
Regional Office, Retail Jamshedpur
Barmine, Goodshed Road, Jamshedpur,
Jharkhand - 831007</p> |

[F. No. 11012/3/2021-OL]

SHOBHANA SRIVASTAVA, Dy. Director (OL)

श्रम और रोजगार मंत्रालय

नई दिल्ली, 13 फरवरी, 2023

का.आ. 181.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रभारी, मैसर्स रिचर्डसन एंड क्रुडस लिमिटेड, अंबतूर, चेन्नई, के प्रबंधन के संबद्ध नियोजकों और महासचिव, अंबतूर औद्योगिक एस्टेट इंजीनियरिंग कर्मचारी संघ, वेंकटपुरम, अंबतूर, चेन्नई, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय - चेन्नई के पंचाट (संदर्भ सं. 46/2017) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.01.2022 को प्राप्त हुआ था।

[सं. एल-42011/153/2016-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 13th February, 2023

S.O. 181.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/2017) of the Central Government Industrial Tribunal cum Labour Court— Chennai as shown in the Annexure, in the Industrial dispute between the employers in relation to Incharge, M/s Richardson & Cruddas Ltd. ,Ambattur ,Chennai and The General Secretary, Ambattur Industrial Estate Engineering Employee's Union, Venkatapuram, Ambattur OT, Chennai, which was received along with soft copy of the award by the Central Government on 16.01.2022.

[No. L-42011/153/2016-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CGIT-CUM-LABOUR COURT & EPF APPELLATE TRIBUNAL CHENNAI

Thursday, the 30th June, 2022

Present: DIPTI MOHAPATRA, LL.M. Presiding Officer

ID No. 46/2017

BETWEEN

The General Secretary
Ambattur Industrial Estate
Engineering Employee's Union
No. 8, Ramachandra Street
Venkatapuram, Ambattur OT
Chennai-600053

....1st Party/Petitioner Union

AND

M/s Richardson & Cruddas Ltd.
Represented by its Unit Incharge
69-D, 12th Street, SIDCO Industrial Estate
Ambattur
Chennai-600098

.....2nd Party/Respondent**Appearance:**

For the 1 st Party/Petitioner	:	Advocate, Sri V. Ajoy Khose
For the 2 nd Party/Respondent	:	Advocate, Sri R. Madanagopal

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/153/2016-IR(DU) dtd. 09.05.2017 referred the following Industrial Dispute to this Tribunal for adjudication

The schedule mentioned in that order is:

“Whether the demand of General Secretary, Ambattur Industrial Estate Engineering Employee's Union in seeking permanency to its members of temporary Lab staff (Viz) S/Sh 1. V. Arun Kumar 2. K. Vijay Kumar 3. K. Seetharaman 4. V. Mayakkaannan & 5. V.Raghuvaran in the establishment of M/s Richardson & Cruddas (1972) Ltd., Chennai Unit is legal and justified? If not, to what relief they are entitled to?

2. On receipt of the above reference from the Appropriate Government, the dispute on reference is registered as ID 46/2017 and due notices were issued to both the parties for their appearance fixing the case to 06.06.2017. Both parties appeared. The Second Party entered appearance. Vakalatnama was filed by the Counsel. On the next date of posting i.e. on 23.06.2017, the Counsel for the First Party-Petitioner Union filed Vakalatnama. The First Party was directed to file Claim Statement and Documents. Neither the General Secretary of the Union nor any of the Petitioners turned up nor filed the Claim Statement resulting several adjournments (almost 20) till the end of the year 2019. Further 6 adjournments were afforded to the First party Union in the 2020. The Petitioner Union failed to file the Claim statement. However, without resorting to any coercive action against the First Party Petitioner's Union, the Tribunal viewed sympathetically and suo-moto afforded adjournments almost 6 in the year 2021 considering the prevailed though situation of Pandemic COVID-19. The General Secretary of the First Party Union did not turn up. Not a single petition was filed for adjournment. However, for the ends of justice, the First Party Union was afforded with some more opportunities by re-listing the case on 05.01.2022 and 04.02.2022. None on behalf First Party Union appeared nor filed the Claim Statement.

3. As such, in view of the discussion held in preceding paragraphs, it appears the First Party Union is not interested to proceed with the case. On the other hand, the case is simply dragged to an extent of almost approaching 5 years only due to non-cooperation of the First Party Union. Due to non-appearance and participation in the proceeding by the First Party, this Tribunal is constrained to conclude the proceeding as it deems there exists no dispute for adjudication in between the parties as per the reference.

In the result the ID case stands dismissed.

An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 13 फरवरी, 2023

का.आ. 182.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कार्यकारी निदेशक, भारत हेवी इलेक्ट्रिकल्स लिमिटेड, त्रिचिरापल्ली; विशेष अधिकारी, भेल कॉम्प्लेक्स कॉप लेबर कॉन्ट्रैक्ट सोसाइटी, त्रिचिरापल्ली, के प्रबंधन के संबद्ध नियोजकों और सचिव, बीएचईएल वलागा ओपंधा थोझीलालार नाला संगम, तिरुवेरुम्बुर, त्रिचिरापल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक न्यायाधिकरण सह श्रम न्यायालय-चेन्नई के पंचाट (संदर्भ सं. 121/2015) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.01.2022 को प्राप्त हुआ था।

[सं. एल-42011/07/2015-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 13th February, 2023

S.O. 182.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 121/2015) of the Central Government Industrial Tribunal cum Labour Court— Chennai as shown in the Annexure, in the Industrial dispute between the employers in relation to The Executive Director, Bharat Heavy Electricals Limited, Trichirappalli; The Special Officer, BHEL Complex Coop. Labour Contract Society, Trichirappalli and The Secretary, BHEL Valaga Oppandha Thozhilalar Nala Sangam, Thiruverambur, Trichirappalli, which was received along with soft copy of the award by the Central Government on 16.01.2022.

[No. L-42011/07/2015–IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Present : DIPTI MOHAPATRA, LL.M., Presiding Officer**I.D. No. 121/2015****Dtd: 01.12.2022**

The Secretary
BHEL Valaga Oppandha Thozhilalar Nala Sangam
5, Dheen Complex, First Floor
Thiruverambur
Trichirappalli-620013

... First Party – Petitioner Sangham

AND

1. The Executive Director
Bharat Heavy Electricals Limited
Trichirappalli-620014
2. The Special Officer
BHEL Complex Coop. Labour Contract
Society
24, Building BHEL
Trichirappalli-620014

... First Respondent

... Second Respondent

Appearance:

For the First Party Sangham : Advocate, Sri D. Veerasekaran

For the First Respondent : Advocates, M/s Fox Mandal & Associate

For the Second Respondent

: Advocate, Mr. Y. Prakash

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/07/2015-IR (DU) dtd. 04.09.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the demand of BHEL, Valaga Oppandha Thozhilalar Nala Sangam (BHEL Contract Labour Union), Trichy to absorb and regularize the members of BHEL Complex Cooperative Labourers is legal and justified? If yes, what relief the workmen are entitled to?”

2. On receipt of the above reference from the appropriate Government, the dispute on reference is registered as ID No. 121/2015 and notices were issued to both the parties for their appearance fixing the case to 30.09.2015

3. The First Party Petitioners Union under the name and style “ BHEL Valaga Oppandha Thozhilalar Nala Sangham” (hereinafter be referred as First Party “Sangham”) pleads to have been affiliated to “Dravidar Labour Union”, a Registered Labour Union with the object to look after the welfare of all members of Second Respondent of BHEL Complex Cooperative Contract Society. There were 1121 members working under the First Respondent “Bharat Heavy Electricals Ltd” (BHEL). It is contended by the First Party “Sangham” that in order to reduce expenditure on work force, the First Respondent established Contract Labour System to carry out the regular and permanent work without any hindrance and set up the “ BHEL Complex Coop Labour Contract Society” (the Second Respondent) which is not a genuine one but created for the obvious purpose through a sham and nominal arrangement between both the Respondents. This arrangement was made only to deprive the workers from their absorption and all eligible entitlements including financial benefits. The persuasive control is with the First Respondent. On account of their strategic position in the First Respondent, the Second Respondent Society has exercised only minimal control. As such, almost all administrative functions and all control over the employees of Second Respondent was under the domain of First Respondent. Besides major portion of funds are provided by First Respondent to cater to the needs of its staff and work force. The Wages and Bonus were also determined by the First Respondent.

4. It is further pleaded that the job carried out by the members of the First Party Sangham are regular in nature as they performed the identical works alongwith the regular employees of the First Respondent. They were issued with Identity Card/Punching Card for Attendance, Uniform, Safety Shoe, PF, ESI, Gratuity, Bonus and Pension as provided to regular skilled workers of First Respondent.

The workers of one of such unit at Haridwar were made permanent whereas the members of the First Party Sangham even though performing the job of perennial in nature, were never been treated equally nor paid with equal salary/wage or any other benefits at par with the regular employees. By the passage of time, some of the employees have already retired without getting any financial benefit. The grievances of the Petitioners- First Party Sangham could not be ventilated before the Competent Authority as the officials of the Executive Body were the nominated by the First Respondent. The persuasive control was always with the First Respondent.

5. The First Party Sangham prays to the Tribunal to impart necessary direction to the First Respondent to regularize and to absorb the workers listed in Annexure-I (**not available**) with effect from the date of joining of the respective employees with consequent relief i.e. continuity of service, differential wages and other monetary benefits. It is submitted that there was no genuine contract in between the Respondents but a contract was initiated for obvious purpose to deprive the Petitioners from their entitlement, thus the contract between the Respondents is a sham and camouflaged to hide the reality.

6. The First Party Sangham accordingly claim their absorption and regularisation. Reliance is placed on a plethora of judicial verdicts of the Hon’ble Apex Court that is in the case of **Food Corporation of India Vs. General Secretary, FCI India Employees Union and Others** and in the case of in **Food Corporation of India Vs. Workmen through the Convener and Another** reported in 2018 LAB I.C 4002. **Hon’ble Supreme Court** in the case of **Gujarat Electricity Board, Thermal Power Station, UKAI Vs. Hind Mazdoor Sabha and Others** in (1995) 5 SCC 27.

The First Party Sangham while claimed their regularization places reliance in the case of **General Manager, BHEL, Ranipet Vs. Canteen Workers Union, Chennai and 102 Others** reported in 2015 II LLJ 12 (MAD). The Learned Counsel also drew attention on the judicial verdict of the **High Court of Judicature of Madras in Writ Appeal No. 875 of 2010 dtd. 10.02.2005 2015 II LLJ 12 MAD**. It is submitted by the Learned Counsel

for the First Party Petitioner Sangham that the Hon'ble Court confirmed the Order of the Labour Court, Vellore. The Labour Court directed the Management to regularize the Canteen Workers. It is submitted that the case in hand is almost similar and identical to the above stated case and therefore the Petitioners of First Party Sangham are entitled to the relief as sought for. The issue of maintainability of reference was challenged by the Respondent at different Forum and set at rest when the Hon'ble Court in WA 163/2016 directed the Tribunal to adjudicate the issue of maintainability of reference as "Preliminary Issue". Thus, pursuant to the Hon'ble Court's direction in WA 163/2016 dtd. 28.07.2016, the Tribunal adjudicated the "Preliminary Issue" by hearing both parties at length. The Learned Counsel for the Petitioner Sangam found to have argued the matter relying on a catena of judicial verdicts. The Tribunal adjudicated the Issue holding the reference as maintainable vide Order dtd. 11.01.2017. The citations accordingly needs no more discussion.

7. Traversing the claim of the First Party Sangham, both the Respondents entered appearance filing their Counter Statements separately with some pleadings on some common facts. The First Respondent BHEL is a Central Public Sector Enterprise, having one of its manufacturing unit at Thiruchirappalli started operation in the year 1964. It is engaged in manufacturing of High Pressure Boilers, Boiler Components, Valves, Seamless Steel Tubes, etc. It has registered itself as a Principal Employer under the Contract Labour (Regulation and Abolition) Act, 1970 and started functioning with more than 8700 permanent employees. At present, it engaged around 98 Contractors who in turn are deploying about 2500 contract labourers daily in average. The Second Respondent, the "BHEL Complex Coop. Labour Contract Society" is one of such Contractors, registered under the Tamilnadu Co-Operative Societies Act, 1983 and possesses the valid license under the CLRA Act, 1970. Ever since the incorporation of the Second Respondent, it has been undertaking work-contracts for different organizations, in or around Trichy i.e. for HAPP, NIT and First Respondent, BHEL. The Second Respondent mostly gets work-contract from the Principal Employer-BHEL-First Respondent to perform menial and unskilled jobs like cleaning and conservancy works of building, cleaning of factory shop floors, loading and unloading, serving of water, snacks, tea and coffee, upkeep and cleaning of Office Furniture, Horticulture activities, supply of tapals etc. and contends that none of such works are abolished or prohibited under the CLRA Act. The First Respondent being the Principal Employer ensures disbursement of fair wages to all its Contract Labour Force alongwith all benefits provided under various laws in force. All the Contractors, including the Second Respondent have been paying the wages to the employees at the rate of Rs. 3,200/- to Rs. 4,100/- which is a mandatory condition stipulated by the First Respondent as part of the contractual terms which is necessarily higher than the minimum wages prescribed by the Government of Tamilnadu. The Contract Workers are also covered under the Canteen facility.

8. Both the Respondents in their Counter Statements also categorically pleaded that the services of employees of the Second Respondent Society are regulated by the Tamilnadu Co-Operative Society itself. The provisions of CLRA Act are applicable to both the Respondents and both the Respondents scrupulously followed it. The Second Respondent being a Cooperative Society under the Tamil Nadu Government has got the separate entity to engage the employees and regulated by the Second Respondent Society itself. The First Respondent never exercises control or supervision over the employees of Second Respondent who were deployed to First Respondent as a measure of contractual obligation by the Second Respondent. It is also contended by both the Respondents that the periodical elections were conducted as per the notification of Government of Tamil Nadu. In adherence to the bye-law, the Second Respondent is governed under the Tamilnadu Co-op Societies Act.

9. The adult members who hailed from surrounding 10 villages attaining minimum age of 18 years, irrespective of any educational qualification were engaged depending on contract of First Respondent, BHEL, Trichy. The members were directly employed by the Second Respondent Society to perform the contractual obligation made in between the First and Second Respondent. The funds are released as per the bills raised by the Second Respondent in consonance to the "Work Contract". Thus the contractual payments are accordingly made by First Respondent to the Second Respondent. Accordingly, it is emphatically pleaded that there exists no Employer-Employee Relationship in between the members First Party Sangham with the First Respondent. It is further contended that in such case if any claim to regularisation or permanency or full membership or improvement of service condition, whenever made and if maintainable, can only be claimed against Second Respondent. The Learned Counsels for both Respondents advanced their respective argument placing reliance on a plethora of judicial pronouncement (shall be discussed as per applicability), in support of their respective pleadings that the claim of First Party Sangham as against First Respondent is without any basis and the case is liable for dismissal.

10. In view of the pleading of Thus the following issues are settled for a fair and proper adjudication.

- (i) Whether there exists any Employer-Employee relationship between the First Respondent – "Bharat Heavy Electricals Ltd." (BHEL) and Members of the Second Respondent, the "BHEL Complex Co-Op Labour Contract Society"?

- (ii) If the demand of the First Party Sangham for absorption and regularization of its Members by the First Respondent-BHEL is legal and justified?
- (iii) To what relief the Members of First Party Sangham?

Issue No. (i) and (ii)

Since both the issues are inter-linked and inter-alia, taken up together for a common discussion.

11. Both parties adduced oral evidence through their respective witnesses and advanced arguments relying on several documents. Sh V. Shanmugam the General Secretary of the First Party Sangham and one of the Petitioners viz. K. Rayar adduced evidence as WW1 and WW2 respectively in support of the pleadings. 41 numbers of documents are produced and marked as Ext.W1 to Ext.W41.

Both the Respondents filed documents separately. The First Respondent produced 22 documents marked as Ext.M1 to Ext.M22 (for R1). The Second Respondent relied on 17 documents marked as Ext.M1 to Ext.M17 (for R2). The Additional General Manager, Shri K. Murali of First Respondent-BHEL led evidence as MW1. The Second Respondent chose not to adduce any evidence on its side.

12. Since the issues are to be adjudicated on the fact and law, the documents on record as well as the evidence of the witnesses are meticulously scrutinized. As per the argument advanced by the Learned Counsels for both parties it is to be seen, if the Second Respondent, M/s BHEL Complex Cooperative Labour Contract Society Ltd. is a separate entity other than the First Respondent. Admittedly, the fact remains undisputed that the Second Respondent obtained valid CLRA license from the Competent Authority who in terms of Section-13 of CLRA Act, 1970 (Page 251-252 of typeset of R2) has issued the same after due investigation of the particulars furnished by the Second Respondent. It reveals that due license was granted on 30.04.2015 in favour of the Second Respondent by the Licensing Officer, the Assistant Labour Commissioner. Accordingly, the work contract from First Respondent was renewed for subsequent years in favour of the Second Respondent. The further plank of contention of the Counsel for the Respondent is that as per the Byelaw (Ext.M12 of R2 stretches from Page No. 7 to 36 typeset) of Second Respondent, the membership of the Second Respondent Society, was open to adult labourers who hail from 10 villages irrespective of their education. The documents of R-2 under Ext.M8 discloses that WW1, none else the General Secretary of First Party Sangham has filled up the Form for enrolling him as a "B" Class Member in the Second Respondent-BHEL Complex Cooperative Labour Contract Society. It is further contended that the Second Respondent delivers the services by deploying its members and employees as contract workmen in the First Respondent Company which comes within the purview of the CLRA Act. The work orders are awarded to the Second Respondent Society by First Respondent Company (Page 253-257 of typeset of R2). The Work Contract were for various Unskilled jobs, like Housekeeping, Cleaning of Tables, Serving Tea, Loading-Unloading, etc. This fact reveals at Page 48-87 of the typeset of the Second Respondent. At the outset, the relevant portion of evidence of WW1 is taken into account. It is stated by WW1 that he has been discharging duties under BHEL since 01.04.1986 as a Skilled Worker (Identity Card Ext.W14 stretches from Page 14 to Page 29 containing Identity-Cards of other employees of typeset of the Petitioner). He further states that at present he has been working in the Storage Material Movement Section, directly under the control of Deputy Engineer of First Respondent and working in the particular section continuously for more than ten years to move materials through Fork-lift along with the regular employees.

13. Argument is well advanced by the Counsel for Respondent that the WW 1 was fully aware of the terms and conditions contemplated in the Application Form itself and was conscious about the nature of job as temporary and no right accrues in his favour to claim any relief from First Respondent Sri K. Rayar. WW2 corroborates stating that he worked under BHEL since 01.04.1986 (Identity Card at Page 17 of Ext.W14) He is continuously working almost for 14 years in the Safety Department in the Office of the First Respondent. Initially, he got license for Light Motor Vehicle in the year 05.08.1987 and thereafter in the year 1998 was issued with Heavy Duty Motor Vehicle license. Thereafter, he was shifted to Central Movement Cell of Maintenance and Service Department for discharging duty as Driver. Ext.W13 is the Order dtd. 20.02.2002 of Manager CMC / M&S regarding utilization of service as Driver in absence of the Driver allotted with duties on Roster basis in the same Department. Due to superannuation of other regular Drivers, at present he is discharging the duty of a Driver. In this context, the Learned Counsel for the Respondent pressed his argument that even if WW2 is claiming to have rendered his service as a Driver, the document under Ext.W13 discloses his such service was utilized in absence of the Driver engaged on Roster Basis. It is emphatically argued by the Learned Counsel of Respondents that this stop-gap arrangement cannot be taken as an advantage by the WW2 to claim a right of permanent job. Admittedly no order of appointment to him as driver is furnished. Ext 13 is mere order of Department under the name "Maintenance and Services Central Movement Cell" regarding the stop gap arrangement. As such it can never be treated as an order of appointment. Besides the mere fact of statement of both WW1 and WW2 that they alongwith other members have been provided with the Identify Card, Punching Card for Attendance, Uniform, Safety Shoes, etc. as applicable to the regular employees, would not suffice to hold that they were directly employed under the First Respondent. Attention

drawn on a bunch of documents under Ext.W14 (which stretches from Page 14 to Page 29) consisting 15 nos. of Identity Cards of different employees including WW1 and WW2. Those documents / identity cards are meticulously perused. It reveals even though the name of the First Respondent, "The Bharat Heavy Electricals Ltd." appears on such Identity cards as "BHEL Identity Card", those were issued by the Second Respondent with its registered name as "BHEL COMPLEX COOP. LABOUR CONTRACT SOCIETY LTD" which appears on all those Identity Cards. On the other hand, all those Identity Cards were duly signed by the Member of the Second Respondent and countersigned by the Chief Security Officer. It is well presumed that those are issued by Second Respondent and not by First Respondent. In this context, the argument is well advanced that at no stretch of circumstance, basing on such Technical Points, the First Party Member-Petitioners cannot claim to have been employed by the First Respondent. The further plank of argument of the Learned Counsel for First Respondent is that the evidence adduced by WW1 with regard to their engagement in various sections like, Gas plants., stainless steel tube plants, (SSTP) pipe cutting, Hot mill, Cole Mill, Shipping, loading and unloading factory Oxygen Plant (F.O.P), Canteen-cook, supply and service and cleaning floor, guest House, cannot be categorized as Skilled job. The Second Respondent is solely responsible for issuance of such Identity Cards under Ext.W14. It is under its domain of Second Respondent to reflect the nature of job as Skilled, Unskilled and Semiskilled which is no way concerned to First Respondent. Undoubtedly, the Second Respondent is one of the Contractors to outsource the manpower for First Respondent, thus, the name of the First Respondent must occur on many relevant documents.

14. In this context, the argument advanced by the Learned Counsels in consonance to the evidence of MW1, K. Murali is taken into consideration. The documents under Ext.W14 from Page 14 to 29 viz. are the Identity Cards issued by the Second Respondent as against 15 members as Skilled Worker including WW1 and WW2 viz. S/Sri (i) V. Shanmugham, WW1 (Worked at Material Stores), (ii) D. Seetharaman, Cook, (iii) S. Johnson, Packing and Despatch, (iv) K. Rayar, WW2 (CMC, BHEL), (v) S. Senthil, Crane Operator, (vi) K. Xavier Kennedy, Cook (vii) A. Arumugam, Gas Plant, (viii) John Peter, Attender, (ix) V. Ravi, Housekeeping, (x) C.V. Anant Raj, Medical Attender, (xi) K. Kamaraj, Quality Control/SSTP, (xii) T. Stephen, Electrician. It appears all these employees have been shown as Skilled Worker except one viz. D. Karikalalan, Attender, shown as Semi-Skilled Worker. None of such Identity Cards expresses the educational / academic qualification of the members except two lady employees viz. S.R. Shanmugavadivoo and B. Geetha. (Vide Identity Card at Page 28-29 of Ext.W14) shown as Laboratory Technician / Skilled Worker. At the cost of repetition it is pertinent to mention that there was no whisper of educational qualification of any of the members who were issued with Identity Cards except Identity Cards of two Lady Members shown as Lab Technicians. But in those cases also, the qualification was not reflected. Besides, in absence of any concrete proof, the First Party Sangam cannot claim to treat the Member Petitioners as Skilled worker. It is pertinent to mention that the First Party fails to file any supporting documents to prove that there are highly qualified employees as having Degree, Diploma, ITI, Welder, Fitter, Blacksmith, Nurse and Ayas, rendering the skilled job. Both the Witnesses claimed that the nature of their jobs are though perennial but were not treated at par with a regular employee. Undoubtedly it reveals from the materials on record that the Second Respondent is responsible for issuance of such Identity Cards in favour of its members. The First Respondent has got no role in this regard. The First Party Member/Petitioners are debarred by the Byelaw (Ext.M12 of R2) to claim any entitlement simply because they were shown as Skilled Worker by the Second Respondent.

15. So far the fact of the Second Respondent's specific status is concerned, it would not be out of place to mention that the Second Respondent is one of the 98 contractors and being issued with valid CLRA License, undertook the contractual obligation to supply manpower to First Respondent. It is well evident that the Second Respondent being an Independent Entity, has got separate Memorandum of Association and Byelaws (Ext.M12 of R2) and functions in a Licenced Building in BHEL township at Kailasapuram. It was governed by a Board of Directors, elected from among the members, and was answerable to its General Body. In the year 2001, pursuant to the amendment in Tamilnadu Cooperative Societies Act, the existing elected body of the Society, was discharged from further functioning and instead the Special Officer for the purpose of managing the affairs of Second Respondent Society was appointed by the Registrar of Co-operative Society, Government of Tamilnadu from time to time by issuing specific Government Order for elections (from Page.15-23 of the Additional typeset of R2). Ext.M8 of R2 is the recent order of appointment of Special Officer. Thus the Society is functioning under the control and supervision of the Registrar of Co-operative Society, Tamil Nadu and not under the control of First Respondent. It reveals from the documents on record that Government of Tamilnadu directed all such Co-operative Society including the Second Respondent to conduct elections. But the elections for filling of the Board could not be held since 2013, due to non-cooperation from the Trade Unions including the First Party Petitioner's Union (the Sangham). Attention drawn to the relevant communications and orders at Page 24 to 39 and Page 240-241 of the typeset of the Second Respondent. It further reveals thereafter the Government of Tamilnadu appointed one of the official of First Respondent to function as Administrator for the Second Respondent. Such appointment of Administrator by the Government is an interim arrangement awaiting the successful election of all eleven Board of Directors of Second Respondent. Thus, the plea of First Party Sangham that the President and Executive members were selected by the First Respondent is

strongly denied by both the Respondents. Such fact in issue remains undisputed, since not being challenged by the Petitioner's Sangham. No rebuttal evidence was also adduced by the Sangham.

16. In view of the discussions held in preceding paragraphs, it is pertinent to mention that the Respondent amply established the fact that the Second Respondent Society is having a "Separate Entity", discharging the contractual obligation pursuant to the contract held in between it and the First Respondent. The materials borne out from the discussion held in preceding paragraphs, it is found that the Second Respondent deployed outsourced unskilled manpower for doing several menial jobs under the contractual obligation. It functions in a Licensed Building and has a separate entity other than the First Respondent. The First Respondent Company has never exercised any control or supervision over the service of the Members of the Second Respondent (revealed from Ext.M9 and Ext.M10). MW1 states that the First Respondent being the Principal Employer ensures the payment of all statutory benefits to the employees engaged / outsourced by Second Respondent. The wage rate was fixed by the First Respondent which is a mandatory condition stipulated as a part of contractual term. Thus, the First Respondent ensures the payment of the Minimum Wages and in addition to that, the BHEL Additional-Wages are being paid to the employees by its Contractor. As such, the First Respondent ensures the fair wage which is not just Minimum Wages but extends the benefits to all employees including the employees / workforce employed by Second Respondent under various clause in force. It is further stated by MW1 that the Second Respondent Contractor was provided with Work-Contract by the First Respondent Company which is predominantly for Menial and Unskilled jobs. The services of employees of Second Respondent are regulated by the Second Respondent Cooperative Society itself.

17. In view of the discussions held in preceding paragraphs, the Petitioner miserably failed to establish the existence of Employee-Employer relationship in between the Members of the First Party Union with the First Respondent. Simply because the members of the Union are deployed / outsourced by the Second Respondent for the First Respondent cannot hold good to say they are directly employed by the First Respondent. The documents on record categorically discloses that the First Respondent, being the Principal Employer imparted necessary directions/instructions to each of its Contractor for disbursement of fair wage, higher to the Minimum Wages Act. This proven fact necessarily goes to show that the Second Respondent employed these members by providing appropriate financial benefits. In such circumstance the First Party Union cannot derive any right out of it to claim regularization and absorption in the First Respondent.

18. The First Respondent relies on the judicial verdict of the Apex Court in the case of *Bharat Heavy Electricals Ltd. Vs. Res Mohendra Prasad Jakhmola and Others dtd 20.02.2019* wherein their Lordships adjudicated a number of Civil Appeals as in 1799-1800 of 2019 SLP (C) 33749-33750 xx xx xx xx xx xx xx xx xx xx Civil Appeal Nos. 1823-1824 of 2019 and SLP (C) 33798-33799 of 2014. While adjudicating the above Civil Appeals including the case cited supra, their Lordships endorsed the guideline / observation imparted by the Hon'ble Apex Court in the case of *Balabanta Rai Saluja and Another Vs. Air India Limited and Others (Manu/SC/0732/2014:2014(9)SCC 407)*. It was held that the relation of Employer –Employee would include inter-alia (i) who appoints the worker (ii) who pays the salary / remuneration (iii) who has the authority to dismiss (iv) who can take disciplinary action (v) whether there is continuity of service (vi) extent of control and supervision i.e. whether there exists complete control and supervision

19. At the cost of repetition, it needs mention that the admitted undisputed fact remains that the First Respondent engaged 98 Contractors and the Second Party Respondent is one of those Contractors who provides manpower to the First Respondent. It is further well evident that the pays / remunerations have been paid to such workforce by the Second Respondent on being provided with the necessary fund allocation from the First Respondent towards its contractual obligation. So far the other clauses are concerned, it is also well evident that these employees were never been appointed by the First Respondent nor any appointment letter was issued to them at any point of time. These employees / the Petitioners, First Party Members of the Sangham were engaged by the Second Respondent. Thus, the Second Respondent has got the authority to dismiss or to take any disciplinary action, if occasion so arises. In this context, the Counter Statement filed by Second Respondent is taken into account. The Second Respondent clearly mentioned that in case of any claim raised by its employee for regularisation or permanency or full membership or improvement of service condition, if maintainable, can only be claimed against Second Respondent and not against the First Respondent. So far the claim of first Party Petitioner Sangham for regularization and absorption are concerned, the following fact needs mention that the decision rendered in *ONGC Vs Krishna Gopal and Others, and the PCLU case dtd. 17.04.2015* is no longer valid, since by a subsequent order date 07.04.2020 wherein the Hon'ble Apex Court took up a batch of Civil Appeal including the case of *ONGC Vs Krishna Gopal and Others, and the PCLU case dtd. 17.04.2015* and held the previous order of the Apex Court suffer from a lot of infirmities and required to be revisited. Thus, the batch of Civil Appeals were referred to the Larger Bench for decision on the point of limitation, if there is any power lies with the Labour and Industrial Courts to order regularization / absorption in absence of sanctioned posts.

20. Now it is to be seen whether the Principal Employer controls and supervises the work of the employees. So far the disbursement of the salary / wages is concerned, it is much discussed in preceding paragraphs that the

salaries/wages/remuneration were paid by the Second Respondent out of the funds allocated by the First Respondent towards the contractual obligation. In order to establish the point regarding the control and supervision on the First Party Member-Petitioners is concerned, the Tribunal places reliance on the *Hon'ble Apex Court's judicial verdict in the case of International Airport Authority of India Vs. International Air Cargo Workers Union (SCC Page 388 Para 38-39)*. In the above judicial pronouncement in the relevant paragraphs:-

Para-38, the Hon'ble Apex Court held *"if the contract is for supply of labour, necessarily the labour supplied by the Contractor will work under the directions, supervision and control of the Principal Employer but that would not make the worker a direct employee of the Principal Employer, if the salary is paid by the Contractor, if the right to regulate the employment is with the Contractor and the ultimate supervision and control lies with the Contractor"*.

Para-39, it is observed:-

"The Principal Employer only controls and directs the work to be done by a Contract Labour when such labour is assigned / allotted / sent to him. But it is Contractor as Employer, who

chooses whether the worker is to be assigned / allotted to the Principal Employer or used otherwise. In short, worker being the employee of the Contractor, the ultimate supervision and control lies with the Contractor as he decides where the employee will work and how long he will work and subject to what condition. Only when the Contractor assigns / sends the worker to work under the Principal Employer, the worker works under the supervision and control of the Principal Employer but that is secondary control. The primary control is with the Contractor".

21. In view of the observation made by the Apex Court as cited above and the materials borne out from the documents on record, undoubtedly speaks out the fact that the primary control is with the Contractor i.e. the Second Respondent. It is pertinent to mention that the Second Respondent supplied the

workforce to the First Respondent to render Un-skilled jobs under the contractual obligation. Thus, the right to regulate and ultimate supervision lies with the Second Respondent. Accordingly, even if the workforce as of the Member-First Party Petitioners rendered their services under the direction / control of the First Party Respondent - the Principal Employer is treated to be secondary control. The primary control is with the Contractor who provides the workforce. As such, the primary and ultimate control and supervision lies with the Second Respondent.

22. The Learned Counsel for First Party Sangham when argued that the Petitioners are victim of unfair labour practice, per contra argument was advanced by the Counsels for both the Respondents. In this regard, the relevant provisions of law as contemplated in the Industrial Disputes Act, is highlighted.

The expression "Unfair Labour Practice" has been defined in Section-2(ra) which reads that any of the following practices specified in the Vth Schedule under Clause 10 comes within the purview of Unfair Labour Practice.

The Vth Schedule in Clause 10 reads:

"To employ workmen as "Badlis", Casuals or Temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen".

Such practice is to be termed as Unfair Labour Practice.

23. In this context it is worth mention that the Second Respondent provided job facilities to Adult Members attaining 18 years of age, irrespective of educational qualification in and around 10 villages in the vicinity of First Respondent establishment at Trichy under a Contractual Obligation. The very action of the Second Respondent in providing job facilities to the Adults of the nearby/surrounding villages was on *"As is where is basis"*. Besides, the Second Respondent deployed its Members / workforce to work with the First Respondent only under a Contractual Obligation. Those Adult Members were never been engaged as Badlis, Casuals and Temporaries and allowed to continue as such just to deprive them of the statutory benefits but the job facilities was provided with good intent to employ the youth of surrounding villages, as a welfare measure. Such action of the Second Respondent cannot be construed to be an Unfair Labour Practice as does not attract Schedule-V of Clause 10, Section-2(ra) of the Industrial Disputes Act, 1947.

24. In view of the discussions held in preceding paragraphs and the materials born out from the documents on record, it is held that the First Party Sangham seriously failed to establish the Employer-Employment relationship between the First Respondent and Members of First Party Sangham. Further in view of judicial verdict in the case of Bharat Heavy Electricals Ltd. Vs. Mohendra Prasad Jakhmola (supra) the case of the First Party Sangham is not tenable in the eye of law.

The issues (i) & (ii) are answered against the First Party Petitioner Sangham. As regards Issue No. (iii):
In the result the First Party Petitioner Sangham is not entitled to any relief as sought for.
The reference is answered against the First Party Sangham.
An Award is passed accordingly.

DIPTI MOHAPATRA, Presiding Officer

(Dictated and transcribed by PA and corrected and pronounced in the open court on this day the 01.12.2022)

Witnesses Examined:

For the First Party Petitioner Sangam	:	WW1, Sri V. Shanmugham
		WW2, Sri K. Rayar
For the First Respondent	:	MW1, Sri K. Murali
For the Second Respondent	:	Nil

Documents Marked:

On the Petitioner's side

Ex.No.	Date	Description
Ex.W1	15.05.1985	Certificate of registration for BHEL Valagam Contract Thozhilalar Nala Sangam.
Ex.W2	31.10.1996	Letter by the Executive Director, BHEL for induction of LCS workers to the availability of sanction
Ex.W3	29.03.1996	Letter sent by the Assistant Labour Commissioner (Central), Puducherry relating to the Industrial Dispute between BHEL Complex Co-Operative Labour Society Contract Workers Union and the management of BHEL, Trichy over the demand for increase in retirement age from 50 to 60 Years.
Ex.W4	24.07.2014	Notice of hearing date sent by the Assistant Labour Commissioner (Central), Puducherry to the Executive Director, BHEL Valagam Oppandha Thozhilalar Nala Sangam, Trichy relating to Industrial Dispute between the Management of BHEL, Trichy and BHEL Complex Co-Operative Labour Contract Society for absorb and regularise the members of the BHEL Complex Co-Operative Labours.
Ex.W5	18.10.1990	The Management of the BHEL nominates its executive officers as the Board of Director to BHEL Complex Co-Operative Labour contract Society Limited.
Ex.W6	21.05.2011	The letter of management, BHEL requested to the Registrar of Co-Operative Society, Chennai for the appointment of Sh.G. Jesu, Manager/Personnel, BHEL,. Trichy the present, Secretary as special officer for BHEL Complex Co-Operative Labour Contract Society Limited, Trichy.
Ex.W7	25.05.2001	The order of Joint Registrar of Co-operative Society, Trichy appointed Mr. G. Jesu, Manager/Personnel, BHEL as a Special officer to the BHEL Complex Cooperative Labour Contract Society Limited for a further period of six months from 25.05.2001 or till the date which a new board is constituted i.e. 24.05.2005

- Ex.W8 24.05.2005 The order of Joint Registrar of Co-Operative Societies, Trichy appointed Mr. G. Jesu, Manager/Personnel, BHEL as a Special officer to the BHEL Complex Co-operative Labour Contract Society Limited for a further period of six months from 24.05.2005 or till the date which a new board is constituted i.e. 18.06.2009.
- Ex.W9. Remittance of Annual premium of LIC for gratuity payment to LCS workers by the management of BHEL.
- Ex.W10. 18.06.2009 The order of Joint Registrar of Co-Operative Society, Trichy appointed Mr. J. Kirubakar Mitra, Deputy Manager/HR, BHEL as a special officer to the BHEL Complex Co-Operative Labour Contract Society Limited for a further period of six months from 18.06.2009 or till the date which a new board is constituted i.e. 24.11.2011.
- Ex.W11. 24.11.2011 The order of Joint Registrar of Co-Operative Society, Trichy appointed Mr. J. Kirubakar Mitra, Deputy Manager/Admn. BHEL as a special officer to the BHEL Complex Co-Operative Labour Contract Society Limited for a further period of six months from 24.11.2011 or till the date which a new board is constituted i.e. 07.10.2015.
- Ex.W12. 07.10.2015 The order of Joint Registrar of Co-Operative Society, Trichy appointed Mr. N.Karthikeyan, Senior Manager/Admn. BHEL as an Administrator to the BHEL Complex Co-Operative Labour Contract Society Limited for a further period of six months from 20.04.2015 or till the date which a new board is constituted
- Ex.W13. 20.02.2002 The management of BHEL issued instruction to utilizing the service of the LCS workers K.Rayar for driving the heavy vehicle of BHEL.
- Ex.W14. -Details of LCS employees job nature in BHEL along with I.D. card for their continous service more than 20 years.
- Ex.W15. 17.12.2014 Documents relating to movement of material of BHEL by Mr. V. Shanmugam, LCS worker the president of the petitioner union as skilled workers in the BHEL Piping, Canteen, stores controlled by Senior Engineer of the management.
- Ex.W16. 25.09.2003. Implementation of service weightage and graded wage payment to the LCS workers by the management of BHEL.
- Ex.W17. 14.08.2010 Increase overtime hours and pay extra wages for overtime works to the LCS workers issued by the Management of BHEL.
- Ex.W18. 01.04.2011 Duty schedule order to the LCS Security personnel by the management of BHEL.
- Ex.W19. 11.10.2013 The management of BHEL allotted Holiday duty to LCS Employees along with BHEL Employees and same is permitted by Inspector, L&O, BHEL.
- Ex.W20. 08.08.2015 The Management of BHEL prepared a Shift roster for LCS employees along with regular employees.
- Ex.W21. 19.08.2015 The Management of BHEL issued a overtime duty roster to the LCS employees along with BHEL employees.
- Ex.W22. 28.08.2015 The management of BHEL allotted duty to the LCS, Employees alongwith regular employees for 2005, 01.09.2015 to 30.09.2015.

Ex.W23.23.09.2015	The Management of BHEL allotted Holiday work Bakrid to the LCS Employees and sent a holiday duty pass as requested letter to the Chief Security Officer, BHEL.
Ex.W24 23.09.2015	The Management of BHEL allotted Holiday work Bakrid to the LCS Employees and sent a holiday duty pass as requested letter to the Chief Security Officer, BHEL.
Ex.W25 30.03.2015	The Management of BHEL issued a crane manpower details of work for the employees of BHEL and LCS employees for the period of April, 2005 (i.e. 01.04.2015 to 30.06.2015).
Ex.W26 29.08.2015	The Deputy Engineer, Cold Mill Production, /BHEL/Trichy allotted duty to the LCS Employees along with regular employees for September, 2015.
Ex.W27 29.08.2015	The Deputy Engineer, Cold Mill Production, SSTP/BHEL/Trichy allotted duty Shift to the LCS Employees for September,2015.
Ex.W28 17.10.2018	Holiday duty work allotted to the LCS employees and BHEL, Trichy by Senior Manager, MM stores, BHEL, Trichy (Holiday due Ayuthapooja).
Ex.W29 16.01.1998	The Chief Security Officer, BHEL issued a certificate for appreciation of good work and attendance to Sh.S. Selvaraj, LCS/Security/Township.
Ex.W30 24.07.2003	The Deputy Chief Security Officer, BHEL issued a certificate for appreciation of good work to Sh.S. Selvaraj, LCS/Security/Township.
Ex.W31 26.05.2005	The Chief Security Officer, BHEL issued a certificate for appreciation of good work to Sh.S. Selvaraj, LCS/Security/Township.
Ex.W32 27.05.2005	The Senior Security Officer, BHEL appreciation the performance of Sh.S. Selvaraj, CS/Security/Township and promoted him to the rank of Asst. Sergeant.
Ex.W33 12.11.2008	The Medical Head, BHEL Hospital issued appreciation certificate to the LCS employees Sh.I. Victor, for period 1994 to 12.11.2008 along with certificate of Pharmacist qualification and he was provisionally selected for Pharmacist on 13.11.1995.
Ex.W34 31.01.2013	The Chief Security Officer, BHEL issued a certificate for appreciation of good work to Sh.M. Mohankumar, LCS Sergeant.

Ex.W35 17.06.2015	The duty roster for LCS Security Staff ``A`` allowed by the Inspector/Township, BHEL, Trichy.
Ex.W36 17.06.2015	The duty roster for LCS Security Staff ``B`` allowed by the Inspector/Township, BHEL, Trichy.
Ex.W37 17.06.2015	The duty roster for LCS Security Staff ``C`` allowed by the Inspector/Township, BHEL, Trichy.
Ex.W38 12.01.2010	BHEL, Haridwar Unit has given letter informing about the absorption of 557 contract labours as permanent employees.
Ex.W39 28.05.2019	The Chairman and Managing Director, BHEL message about the achieved profit for the year 2017-2018 and 2018-2019.
Ext.W40-	Copy of Driving License of P. Rayar
Ext.W4107.11.2015	Copy of Ad-hoc Payment to BHEL LCS from Administrator

Documents Marked:**On behalf of First Respondent**

Ex. No. Date	Description
Ext.M1 ---	Work Orders
Ext.M2 ---	Letter from Petitioner to Deputy Commissioner Labour
Ext.M3 17.04.2021	Letter from Petitioner to Regional Labour Commissioner with enclosures
Ext.M4 12.07.2014	Letter from Petitioner to Chief Labour Commissioner
Ext.M5 25.08.2014	Letter from Petitioner to Asst. Labour Commissioner
Ext.M6 06.12.2014	Letter from 2 nd Respondent to Asst. Labour Commissioner
Ext.M7 13.08.2014	Letter from 1 st Respondent to Asst. Labour Commissioner
Ext.M8 02.07.2020	Appointment of Special Officer in 2 nd Respondent
Ext.M9 09.02.2011	Certificate of Registration issued to 1 st Respondent
Ext.M10 29.05.2020	License issued to 2 nd Respondent
Ext.M11 13.01.2015	Failure report submitted by Asst. Labour Commissioner
Ext.M12 04.02.2015	Letter from Government of India to Respondents
Ext.M13 17.07.2017	Order passed in W.P.(MD) No.2330 of 2017
Ext.M14 05.04.2018	Order passed in W.A.(MD) No.1032 of 2017
Ext.M15 13.12.2018	Order passed in SLP No.18916 of 2018
Ext.M16 13.07.2016	Reply to RTI request
Ext.M17 02.09.2015	Reference of Dispute
Ext.M18 11.01.2017	Preliminary Award
Ext.M19 23.07.2015	Order passed in WP No.9271 of 2015
Ext.M20 20.07.2016	Order passed in W.A. No.163 of 2016 and W.P. No.34247 of 2015
Ext.M21 10.12.2015	Order passed in W.A. No.1667 of 2015
Ext.M22 23.09.2016	Order passed in SLP No.26891 & 26892 of 2016

Documents Marked:**On behalf of Second Respondent**

Ex. No.	Date	Description
Ext.M1		To
Ext.M6	-	S.18(1) agreements entered from time to time between the 2 nd respondent and the Trade Unions including petitioner Union
Ext.M7	05.04.2013	Joint representation given by all unions of BHEL Complex Cooperative Labour Contract Society regarding boycott of election
Ext.M8	-	Extract from Personal file of employees - Office & bearers of the Petitioner Union (Membership Form
Ext.M9		Nomination form, ESI form, Pay Slips, other documents)
Ext.M10---		Pay Slip for the month Dec`2018
Ext.M11	-	Balance sheet, P & L Account and Income and expenditure Account of the 2 nd respondent (Audited by the Co-operative Department of State of Tamil Nadu) for 3 Financial Years 2012-13, 2013-14, 2014-15
Ex.M12	05.07.1978	Proceedings of the Deputy Registrar of Co-operative Societies, Tiruchirappalli
Ext.M13-		Enrolment form for class-'B' Membership in Society Submitted by PW-2
Ext.M14-		Declaration and Application form for membership in Society submitted by PW-2
Ext.M15-		PF Nomination submitted by PW-2
Ext.M16	11.11.1998	Application submitted by PW-2 to 2 nd Respondent Society seeking Driver job
Ext. M17	31.01.2018	Series of salary slip PW-2 issued by 2 nd Respondent
	To	
	31.01.2020	

नई दिल्ली, 13 फरवरी, 2023

का.आ. 183.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स अद्वैत टेक्स्वर् इंडिया लिमिटेड, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री धीरज गोस्वामी, श्री दिव्य गोस्वामी, द्वारा जनरल मजदूर लाल झंडा यूनियन, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ सं. 65/2020) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.01.2023 को प्राप्त हुआ था।

[सं. एल-42011/31/2020-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 13th February, 2023

S.O. 183.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 65/2020) of the Central Government Industrial Tribunal cum Labour Court - I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s Advait Techserve India Ltd., New Delhi, and Shri Deeraj Goswami, Shri Divy Goswami, through, The General Mazdoor Lal Jhanda Union, New Delhi, which was received along with soft copy of the award by the Central Government on 31.01.2023.

[No. L-42011/31/2020-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT DELHI-1
ROOM NO. 207, ROUSE AVENUE COURT COMPLEX, NEW DELHI.****Present :** Justice VIKAS KUNVAR SRIVASTAVA (Retd.) Presiding officer) CGIT, Delhi-1**ID No. 65/2020**

Shri Deeraj Goswami S/o Lt. Hakim Goswami,
Shri Divy Goswami S/o Sh.Dheeraj Goswami rept.by
General Mazdoor Lal Jhanda Union,
Regional Office -G-94, Mahavir Enclave,
New Delhi – 110045

.....Claimant

Versus

The Management of
M/s Advait Techserve India Ltd.
Branch H.NO.29,
First Floor East of Kailash Colony,
New Delhi-110048.
None for the claimant
Shri Rajat Arora, AR for the management

.....Management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.42011/31/2020-IR(DU) dated 06.08.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether the services of Shri Dheeraj Goswami S/o Late Shri Hakim Goswami and Divy Goswami S/o Shri Dheeraj Goswami have been terminated w.e.f. 1.3.2019 by the management of M/s Advait Techserve India Pvt. Ltd., New Delhi illegally and/or unjustifiably as raised by General Mazdoor Lal Jhanda Union, New Delhi and if so, to what relief are the workmen concerned entitled and what directions, if any, are necessary in this regard ?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (RETD.), Presiding Officer

Date: 20.01.2023

नई दिल्ली, 13 फरवरी, 2023

का.आ. 184.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैटसन्स कंस्ट्रक्शन्स प्रा. लिमिटेड, पश्चिम विहार, नई दिल्ली; सहायक अभियंता, सीपीडब्ल्यूडी, लोधी रोड, नई दिल्ली, के प्रबंधन के संबंध में नियोजकों और महासचिव, समाजवादी कर्मचारी संघ (रजि.), नयी दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ सं. 100/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.01.2023 को प्राप्त हुआ था।

[सं. एल-42011/13/2019-आई.आर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 13th February, 2023

S.O. 184.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 100/2019) of the Central Government Industrial Tribunal cum Labour Court - I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to Matsons Constructions Pvt. Ltd., Paschim Vihar, New Delhi; The Assistant Engineer, CPWD, Lodhi Road, New Delhi, and The General Secretary, Samajwadi Karamchari Union (Regd.), New Delhi, which was received along with soft copy of the award by the Central Government on 31.01.2023.

[No. L-42011/13/2019-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT DELHI - 1 ROOM NO.207, ROUSE AVENUE COURT COMPLEX, NEW DELHI.

Present : Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding officer CGIT, Delhi-1

ID No. 100/2019

The General Secretary,
Samajwadi Karamchari Union (Regd.) C-60,
Harkesh Nagar, Okhla Tank,
Vishwakarma Public School,
New Delhi-110020.

....Claimant

Versus

1. Matsons Constructions Pvt. Ltd.,
14/A, GH-10, Sunder Apartments,
Outer Ring Road, Paschim Vihar,
New Delhi-110087.
2. The Assistant Engineer,
CPWD, 12/217, T-Divisions, Lodhi Road,
Delhi – 110003

....Management

None for the claimant
Shri Atul Bhardwaj, AR for the management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.42011/13/2019-IR(DU) dated 04.04.2019 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“1. Whether the termination of services of the workmen SH.Manoj and Praveen by the management of Matsons Constructions Pvt. Ltd. (Contractor) and CPWD (Principal Employer) is illegal / unjustified if so to what relief they are entitled to and what directions are necessary in this respect ?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

Date: 20.01.2023

नई दिल्ली, 13 फरवरी, 2023

का.आ. 185.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, शीप एंड वूल रिसर्च संस्थान, टोंक, राजस्थान के प्रबंधन के संबंधित नियोजकों और श्री विजय कुमार शर्मा, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर, (राजस्थान) (संदर्भ सं. 72/1995 CIS NO 30/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 13/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/187/94-आई.आर. (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 13th February, 2023

S.O. 185.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 72/1995 CIS NO 30/2014) of the Central Industrial Tribunal—Jaipur as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director, Sheep and Wool Research Institute, Tonk, (Rajasthan) and Shri Vijay Kumar Sharma, worker, which was received along with soft copy of the award by the Central Government on 13/02/2023.

[No. L-42012/187/94-IR (DU)]

D. K. HIMANSHU, Under Secy.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर, राजस्थान

Presiding Officer	:	Gajendra Pal Mogha, RHJS
Central IT Case No.	:	72/1995
CIS No.	:	30/2014

रैफरेंस: भारत सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश
कमांक एल-42012/187/94- आई.आर.(डी.यू.) दिनांक 15.12.1995

विजय कुमार शर्मा पुत्र श्री राज कुमार शर्मा, चोपड़ा मंदिर के पीछे,
नर्सरी के गेट के सामने, धौलपुर, राजस्थान

....प्रार्थी श्रमिक

बनाम

निदेशक, शीप एण्ड वूल रिसर्च संस्थान (Sheep and wool Reserch Institute),

अवीका नगर (मालपुरा), जिला टोंक, राजस्थान।

...अप्रार्थीगण

उपस्थित

प्रार्थी की ओर से :

श्री कान सिंह राठौड़

अप्रार्थी की ओर से :

श्री एस.एस. हसन

अवार्ड दिनांक : 02.11.2022

अवार्ड

भारत सरकार के श्रम मंत्रालय की उपरोक्त आज्ञा क्रमांक से निम्न अनुसूची का विवाद अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है —

“Whether the action of the management of Director Sheep and wool Reserch Institute, AvikaNagar, Tonk, in terminating the services of shri Vijay kumar on 7-10-1998 is legal and justified? If not, to what relief the workman is entitled to?”

प्रकरण दर्ज किया जाकर उभय पक्षों को नोटिस जारी किये गये। प्रार्थी श्रमिक की ओर से दिनांक 27.12.1995 को स्टेटमेंट ऑफ क्लेम पेश कर अभिकथन किया कि उसकी नियुक्ति मस्टरोल पर दैनिक वेतन भोगी कर्मचारी के रूप में दिनांक 1.7.85 को हुई थी तथा श्रमिक को माह के अंत में न्यूनतम वेतन अधिनियम के अन्तर्गत निर्धारित दर से वेतन भुगतान किया जाता था। प्रार्थी श्रमिक से चतुर्थ श्रेणी कर्मचारी/चौकीदार का कार्य लिया जाता था। प्रार्थी का कार्य हमेशा संतोषपूर्ण रहा था। प्रार्थी की सेवाएं दिनांक 7.10.1988 को बिना किसी नोटिस के मौखिक रूप से समाप्त कर दी गईं। प्रार्थी को एक कलेण्डर वर्ष में दूसरे नाम का श्रमिक दिखाकर वेतन भुगतान किया गया, जिससे मस्टरोल में श्रमिक एक कलेण्डर वर्ष 240 दिन पूर्ण नहीं दिखें, जो अनफेयर लेबर प्रैक्टिस की श्रेणी में आता है। विपक्षी संस्थान द्वारा अधिनियम की धारा 25^{जी}, 25एफ का उल्लंघन किया गया है। अंत में प्रार्थी के मौखिक आदेश दिनांक 7.10.1988 के तहत समाप्त की गईं प्रार्थी की सेवाओं को अवैध घोषित कर सेवा की निरन्तरता के साथ पुनः सेवा में लिये जाने तथा वेतन व अन्य लाभ दिलाये जाने की प्रार्थना की गई है।

अप्रार्थी संस्थान की ओर से जवाब प्रस्तुत कर अभिकथन किया कि प्रार्थी श्रमिक को दिनांक 1.7.85 को दैनिक वेतन भोगी मजदूर के रूप में लगाया गया था। प्रार्थी से आवश्यकता अनुरूप आकस्मिक कार्य लिया जाता था। प्रार्थी द्वारा एक कलेण्डर वर्ष में कभी भी 240 दिन से अधिक कार्य नहीं किया गया है। अप्रार्थी संस्थान अधिनियम की परिधि में नहीं होने से उद्योग की परिभाषा में नहीं आता है। अप्रार्थी संस्थान द्वारा अधिनियम के किसी भी प्रावधानों का उल्लंघन नहीं किया गया है। अंत में प्रार्थी श्रमिक का क्लेम खारिज किये जाने की प्रार्थना की है।

प्रार्थी श्रमिक विजय कुमार द्वारा दिनांक 1.2.2016 को स्वयं का शपथ पत्र पेश किया गया। लेकिन श्रमिक को जिरह हेतु कई अवसर दिये जाने के बावजूद उपस्थित नहीं होने के कारण न्यायाधिकरण के आदेश दिनांक 12.7.2022 द्वारा प्रार्थी श्रमिक की साक्ष्य बंद की गई। चूंकि प्रार्थी स्वयं जिरह हेतु उपस्थित नहीं हुआ है अतः उसके द्वारा प्रस्तुत शपथ पत्र पठनीय नहीं है। अप्रार्थी संस्थान द्वारा प्रार्थी की ओर से कोई साक्ष्य नहीं होने से अप्रार्थी द्वारा कोई साक्ष्य पेश करना नहीं चाहने पर साक्ष्य अप्रार्थी बंद की गई। उभय पक्षों की बहस सुनी गई। पत्रावली का ध्यानपूर्वक अवलोकन व अध्ययन किया गया।

प्रार्थी श्रमिक की ओर से अधिकृत प्रतिनिधि द्वारा बहस की गई है कि श्रमिक को बिना कोई नोटिस, नोटिस वेतन एवं छंटनी मुआवजा दिये मौखिक आदेश दिनांक 7.10.1988 द्वारा सेवा से हटा दिया गया, जो अनुचित एवं अवैध है। प्रार्थी द्वारा एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य किया गया है। अप्रार्थी द्वारा अधिनियम की धारा 25एफ एवं 25 जी का उल्लंघन किया गया है। अतः श्रमिक को उनके कार्य के अनुरूप वेतन का भुगतान मय ब्याज दिलाया जावे।

अप्रार्थीगण के प्रतिनिधि द्वारा बहस की गई है कि प्रार्थी द्वारा एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य नहीं किया गया है। श्रमिक द्वारा आकस्मिक कार्य के लिये आवश्यकतानुरूप किया गया है। प्रार्थी श्रमिक द्वारा अपने क्लेम के समर्थन में कोई साक्ष्य पेश नहीं की गई है अतः क्लेम खारिज किया जावे।

मैंने उभय पक्षों द्वारा दिये गये तर्कों पर मनन किया। भारत सरकार की ओर से जो विवाद अधिनिर्णय हेतु इस न्यायाधिकरण को प्रेषित किया है, वह श्रमिक की नियुक्ति एवं वेतन से संबंधित है, जो पूर्णतया साक्ष्य का विषय है। लेकिन प्रार्थी की ओर से अपने स्टेटमेंट ऑफ क्लेम के समर्थन में कोई साक्ष्य पेश नहीं की गई है और जो दस्तावेज पेश हुये हैं उन्हें भी अपनी साक्ष्य से प्रमाणित नहीं करवाया गया है। औद्योगिक विवाद अधिनियम के प्रावधानों के तहत स्टेटमेंट ऑफ क्लेम में वर्णित तथ्यों को सिद्ध करने का भार स्वयं प्रार्थी पर था लेकिन प्रार्थी की ओर से प्रस्तुत स्टेटमेंट ऑफ क्लेम के समर्थन में कोई साक्ष्य पेश नहीं की गई है। प्रार्थी द्वारा प्रस्तुत स्टेटमेंट ऑफ क्लेम स्वीकार किये जाने योग्य नहीं है। अतः प्रार्थी साक्ष्य के अभाव में कोई राहत पाने का अधिकारी नहीं रह जाता है। निष्कर्षतः प्रकरण में निम्न अवार्ड पारित किया जाता है —

अवार्ड

“अप्रार्थी संस्थान शीप एण्ड बुल रिसर्च संस्थान, अवीक नगर,, मालपुरा जिला टोंक द्वारा प्रार्थी श्रमिक विजय कुमार शर्मा की सेवाएं दिनांक 7.10.1988 से समाप्त किया जाना उचित एवं वैध है। प्रार्थी श्रमिक कोई राहत पाने के अधिकारी नहीं है।”

रैफरेंस तदनुसार उत्तरित किया जाता है।

गजेन्द्र पाल मोघा, न्यायाधीश

नई दिल्ली, 13 फरवरी, 2023

का.आ. 186.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य महाप्रबंधक, दूरसंचार, भारत संचार निगम लिमिटेड, सासुमती शिमला, (हिमाचल प्रदेश); उप-विभागीय अभियंता (विद्युत), दूरसंचार, भारत संचार निगम लिमिटेड, सासुमती शिमला, (हिमाचल प्रदेश) के प्रबंधतंत्र के संबद्ध नियोजकों और श्री पीतांबर लाल, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 चंडीगढ़ के पंचाट (संदर्भ सं. 142/2014) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 09/02/2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-62-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 13th February, 2023

S.O. 186.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 142/2014) of the Central Government Industrial Tribunal cum Labour Court –I, Chandigarh, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief General Manager, Telecom, Bharat Sanchar Nigam Limited, Sasumti, Shimla (H.P); The Sub-Divisional Engineer(Electrical), Telecom, Bharat Sanchar Nigam Limited, Sasumti, Shimla, (H.P) and Shri Pitambar Lal, Worker which was received along with soft copy of the award by the Central Government on 09/02/2023.

[No. L-42025-07-2023-62-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. J.K. TRIPATHI, Presiding Officer.

ID No. 142/2014

Registered On:-26.03.2015

Pitambar Lal S/o Hem Singh, R/o Village Bataher,
PO Baloh, Tehsil Sadar, District Mandi Himachal Pradesh.

.....Workman

Versus

1. Bharat Sanchar Nigam Limited, through its
Chief General Manager, Telecom, HP Circle, Sasumti Shimla, HP.
2. Bharat Sanchar Nigam Limited, through its
Sub-Divisional Engineer(Elect), Telecom, HP Circle,
Sasumti Shimla, HP

.....Respondents/Managements

AWARD**Passed On:-21.10.2022**

1. The workman Pitambar Lal has directly filed statement of claim under Section 2-A of the Industrial Disputes Act, 1947(hereinafter called the Act), with a prayer that opposite party may be directed to reinstate the workman from the date of illegal termination.

2. The brief facts relevant for deciding this claim petition is that the workman was working as casual labour cum Peon with the management at its office at Mandi, since Nov. 1994 on the office of Assistant Engineer(Elect) Telecom, Mandi H.P. The workman has been paid his monthly salary on the ACG-17 Form. On 19.02.1999, the management issued a circular/notification vide letter no.Staff/S 1034/43 with regard to the regularization/grant of TSM status to casual labours working with the various office of the management and copy of which is annexed as Annexure W-1. The services of the co-workers who joined the management later that the workman namely Sh. Tej Ram, Hans Raj, Jai Singh and many who were also drawing his salary on ACG-17, were granted temporary status in the year 1999-2000. Sh. Dillu Ram, Mohan Lal, Rakesh Kumar, Shiv Dass, Prem Lal, Halku Ram, Chauramani, Inder Singh were also granted temporary status, while working in project wing of the management in pursuance to the letter dated 19.02.1999. Similarly the services of Prem Lal, Hari Singh and many others were regularized after the grant of temporary status in the year 2002-2003 while they were working in the projects of the management. On 26.02.1999, 07.04.1999 and 23.09.1999 (Annexure W-2 to W-4) the management granted temporary status to workmen mentioned in the letters. On 10.05.2010(Annexure W-5) the workman served a legal notice upon the management for grant of TSM status and other benefits but to no avail. On 17.05.2010 the management had internal correspondence clearly mentioning the employment of the workman from November 1994 and again on 01.10.2001 till date. On 01.07.2010 the management did reply to the legal notice of the workman, admitting that the workman was engaged on 01.11.1994 and copy of the reply to the legal notice dated 01.07.2010 is attached herewith as Annexure W-6. On 31.12.2011 the services of the workman were terminated without assigning any reason without giving any notice and without giving any retrenchment compensation. On 18.02.2015 the Ld. Assistant Labour Commissioner issued certificate, enabling the workman to approach this Hon'ble Court under the provision of Section 2-A(2) of the Industrial Disputes(Amendment) Act, 2010(Annexure W-14). It is therefore, prayed that the workman be reinstated in service from the date of illegal termination and granted the temporary status as granted to similarly situated workers along with all consequential benefits and back wages from the date of the illegal termination till the date along with an interest @ 18% per annum from the date it became due till the date of final payment.

3. Management filed written statement, alleging therein that the workman was engaged by the BSNL on 01.11.1994 and has worked upto 01.09.1995 and that too as and when required. He was not engaged against any sanctioned post and as per Rules. After 01.09.1995 the workman has worked through private agencies as per government procedure prescribed for hiring of labourer/personnel. There is no master and servant relation between the workman and management. The claim statement filed by the workman is liable to be dismissed. The workman has challenged the termination order dated 31.12.2011. The claim filed by the workman is barred by law of limitation therefore the same is liable to be dismissed. Once the workman has not worked with the management therefore the question of satisfactory work does not arise. The workman has not specified any period from which office he has drawn wages on ACG-17. The workman was engaged by the BSNL on 01.11.1994 and he has worked upto 01.09.1995. After 01.09.1995 the workman has worked through private agencies, following all the relevant rules for supplying skilled and unskilled labourers. The workman did not completed 240 days with the management and he has worked with the management w.e.f. 01.11.1994 upto 01.09.1995 as and when required. There is no master and servant relation between the workman and the

management. The workman has worked with the agencies and he has not arrayed the agencies as party in the claim statement. It is therefore, respectfully prayed that the present claim statement is liable to be dismissed with costs.

4. The workman has not filed any replication against the written statement filed by the management.

5. Parties have been given opportunity to lead evidence. The workman/claimant has examined himself as WW1 and filed his affidavit in evidence as W1 and relied on the documents Exb.W2 to W15 and has been cross-examined by the learned counsel of management.

6. The management has examined Sh. Raghbir Singh, Executive Engineer, BSNL Electrical Division, Mandi(H.P.), who has filed his affidavit in evidence as Ex.MW1/A along with documents Ex.MW1/1 to MW1/17 and has been cross-examined by the learned counsel of workman.

7. I have heard the learned counsel of the workman Sh. Arun Batra and learned counsel of the management Sh. D.R. Sharma and have gone through the records carefully.

8. Learned AR appearing on behalf of workman Sh. Arun Batra has contended that the workman was engaged by the respondent-BSNL Company in Electrical Wing as casual labour at Mandi on full time basis and was performing his duties with care and sincerity. Learned AR further argued that the workman has been paid his monthly salary on ACG-17 Form. On 19.02.1999 the management issued a circular/notification with regard to the regularization and to grant the status as casual labourers working with various offices of the management. Other co-workers who have been appointed with the workman-Pitamber Lal has been granted temporary status in the year 1999-2000 but the workman-Pitamber Lal was not granted temporary status. On 13.12.2011 without any cogent reason the services of the workman was terminated without giving any notice though the workman has completed 240 days in a calendar year in many years. On the other side, the management has argued that the workman was engaged by the management of BSNL on 01.11.1994 and has worked upto 01.09.1995 as casual labourer. Thus, it is a admitted fact that the initial engagement of the workman-Pitamber Lal with the management was as a casual labour. It is also submitted on behalf of the management that the workman was not engaged by the management against any sanctioned post and as per Rules. After 01.09.1995, the workman was working with the management through private agencies as per Government procedure prescribed for hiring of labourers and personal staff. Thus, it is submitted on behalf of the management that as a casual labour from 01.11.1994 upto 01.09.1995 the workman was in the direct employment of the management as a casual labour. Thereafter, his services were being taken by the management through private agencies meaning thereby after 01.09.1995. Though, the workman was giving his services to the management-BSNL but was under the direct control of private agencies. No replication has been filed by the workman against this version of the management.

9. It is argued on behalf of the management that the claim statement filed by the workman is liable to be dismissed as the termination order was passed on 31.12.2011 and claim petition has been filed by the workman which is barred by Law of limitation. It is admitted fact that the workman-Pitamber Lal was terminated on 31.12.2011 and this claim petition has been filed by the workman on 26.03.2015. This claim petition has been filed as Industrial Dispute under Section 2(a) 2 of Amended ID Act, 1947. The Act amended in the year 2010 by Act No.24 of 2010 which was came into force w.e.f. 15.09.2010. It is admitted fact that this claim petition has been filed under Section 2(a) sub-Clause 2 of the Industrial Disputes Act, 1947 as amended in the year 2010. Section 3 of sub-Section 2(a) is reproduced as below:-

“(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).”

10. Thus, the management has vehemently argued that this case is time barred. It would be pertinent to mention here that no replication by the workman has been filed against this. If we calculate the time period, it is apparent that this case has been filed beyond the period of limitation as the workman was termination on 31.12.2011 upto 31.12.2014, the period of three years finished, meaning thereby there was an opportunity before the workman to file his claim petition upto 31.12.2014. Since this claim has been filed on 26.03.2015 it is apparent that this case has been filed on the completion of limitation period. Thus, it is very clear that the claim filed by the workman is barred by Law of limitation of three years. Since the case is time barred and this Tribunal has no power to condone the delay beyond of three years, the case is liable to be dismissed. Therefore, the claim petition filed by the workman is liable to be dismissed and declined as it is barred by limitation. File after completion be consigned in the record room.

11. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

J. K. TRIPATHI, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 187.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चीफ पोस्ट मास्टर जनरल, अहमदाबाद (गुजरात); डाक अधीक्षक, भावनगर (गुजरात), के प्रबंधन के संबद्ध नियोजकों और शाखा सचिव, रेलवे एवं डाक कर्मचारी संघ, वासना, अहमदाबाद (गुजरात), के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद के पंचाट (संदर्भ सं. 185/2018) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-40011/03/2018-आईआर -(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 187.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 185/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief Post Master General, Ahmedabad (Gujarat); The Superintendent of Post, Bhavnagar (Gujarat), and The Branch Secretary, Association of Railway and Post Employees, Vasna, Ahmedabad (Gujarat), which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-40011/03/2018-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM -LABOUR COURT, AHMEDABAD

Present : SUNIL KUMAR SINGH-I, Presiding Officer,
CGIT cum Labour Court, Ahmedabad,
Dated : 10.01.2023

Reference: (CGITA) No- 185/2018

1. The Chief Post Master General,
GPO, Relief Road,
Ahmedabad(Gujarat)-380001.
2. The Superintendent of Post,
Bhavnagar Division, Bhavnagar HO,
Bhavnagar (Gujarat)-364001.

...First Parties

V

The Branch Secretary,
Association of Railway and Post Employees,
15, Shashi Apartment, Bhattha Cross Road,
Vasna, Ahmedabad(Gujarat)-380007.

....Second Party

Adv. for the First Party employer : None
Adv. for the Second Party workman : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40011/03/2018-IR(DU) dated 04.12.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Branch Secretary, Association of Railway & Post Employees, Ahmedabad against the management Postal Department, Suptd. Of Post Offices, Bhavnagar Division to reinstatement of Sh. K. M. Sarvaiya & 03 others in post of postman with continuity of service and with full backwages & other consequential benefits is fair and justified? If yes, then what relief Sh. K. M. Sarvaiya & 03 others, workmen are entitled to & what other direction are necessary in the matter?”

1. Today, the matter was called out. None responded for either of the parties. The reference dates back to 04.12.2018. Notice Exh. 2 was issued to the parties, wherein the parties were asked to submit their pleadings. A period of over four years has elapsed, yet no statement of claim has been filed as directed by the Ministry. It appears that the Second Party workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the demand of the Branch Secretary, Association of Railway & Post Employees, Ahmedabad against the management Postal Department, Suptd. Of Post Offices, Bhavnagar Division to reinstatement of Sh. K. M. Sarvaiya & 03 others in post of postman with continuity of service and with full backwages & other consequential benefits is not fair and justified. The concerned workmen are not entitled for any relief.”

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 188.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, डीजीआर कृषि भवन, नई दिल्ली ; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधन के संबद्ध नियोजकों और श्री गोविंद भाई जसाभाई, वनकरवास, द्वारा टिम्बावाडी, इवानगर, जूनागढ़, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद के पंचाट (संदर्भ सं. 58/2018) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/37/2018-आई.आर. —(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 188.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 58/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, DGR Krishi Bhawan, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Shri Govindbhai Jasabhai, Ivanagar, Vankarvas, via Timbawadi, Junagadh, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42012/37/2018-IR —(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT,
AHMEDABAD**

Present : Sunil Kumar Singh-I, Presiding Officer,
CGIT cum Labour Court, Ahmedabad,
Dated 2nd January, 2023

Reference: (CGITA) No-58/2018

1. The Indian Council of Agricultural Research,

DGR Krishi Bhawan,
Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001.

2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.
3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

.... First Parties

V

Sh. Govindbhai Jasabhai,
Ivanagar, Vankarvas,
Via Timbawadi,
Junagadh – 362001.

....Second Party

Adv. for the First Party : Shri H. R. Raval
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/37/2018-IR (DU) dated 30.05.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the termination of the services of workman, namely, Shri Govindbhai Jasabhai w.e.f. 01/01/2014 (working as Casual labour w.e.f. 16/01/1991) by the Management of Indian Council of Agricultural Research (Directorate of Groundnut Research) Junagarh Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?”

1. Today, the matter was called out. None responds for either of the parties. The reference dates back to 30.05.2018. The notice Ex. 2 was served on second party by acknowledgement Ex. 3, wherein the second party was asked to submit the statement of claim on 21.06.2019. Second Party / workman has been afforded more than 10 opportunities to file its statement of claim, but for no avail. It appears that the Second Party / workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the termination of the services of workman, namely, Shri Govindbhai Jasabhai w.e.f. 01/01/2014 (working as Casual labour w.e.f. 16/01/1991) by the Management of Indian Council of Agricultural Research (Directorate of Groundnut Research) Junagarh Gujarat” is legal and justified.

3. Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 189.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, डीजीआर कृषि भवन, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधन के संबंध में नियोजकों और श्रीमती हीरुबेन जीवाभाई, वनकरवास, द्वारा टिम्बावाडी, इवानगर, जूनागढ़, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-अहमदाबाद के पंचाट (संदर्भ सं. 90/2018) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/77/2018-आई.आर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 189.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 90/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, DGR Krishi Bhawan, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Hiruben Jivabhai, Ivanagar, Vankarvas, via Timbawadi, Junagadh, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42012/77/2018-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT,
AHMEDABAD**

Present: SUNIL KUMAR SINGH-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated 2nd January, 2023

Reference: (CGITA) No- 90/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan,
Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001.
2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.
3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

.... First Parties

V

Smt. Hiruben Jivabhai,
Ivanagar, Vankarvas,
Via Timbawadi,
Junagadh – 362001.

....Second Party

Adv. for the First Party : Shri H. R. Raval
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/77/2018-IR (DU) dated 04.10.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Indian Council of Agricultural Research-Directorate of Groundnut Research, Junagadh in terminating the services of Smt. Hiruben Jivabhai, casual labour w.e.f. 01.01.2014 (working since 21/6/1995 as per version of management) is legal and justified? If not, what relief the concerned workman is entitled to and to what extent?”

1. Today, the matter was called out. None responds for either of the parties. The reference dates back to 04.10.2018. The notice Ex. 2 was served on second party by acknowledgement Ex. 3, wherein the second party was asked to submit the statement of claim on 21.06.2019. Second Party / workman has been afforded more

than 10 opportunities to file its statement of claim, but for no avail. It appears that the Second Party / workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the action of the management of Indian Council of Agricultural Research-Directorate of Groundnut Research, Junagadh in terminating the services of Smt. Hiruben Jivabhai, casual labour w.e.f. 01.01.2014 (working since 21/6/1995 as per version of management) is legal and justified.”

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 190.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, डीजीआर कृषि भवन, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधन के संबंध में नियोजकों और श्रीमती भावनाबेन भरतभाई, वनकरवास, द्वारा टिम्बावाडी, इवानगर, जूनागढ़, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद के पंचाट (संदर्भ सं. 89/2018) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/72/2018-आईआर -(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 190.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 89/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, DGR Krishi Bhawan, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Bhavanaben Bharatbhai, Ivanagar, Vankarvas, via Timbawadi, Junagadh, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42012/72/2018-IR -(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, AHMEDABAD

Present : Sunil Kumar Singh-I, NPresiding Officer,
CGIT cum Labour Court, Ahmedabad,

Dated 2nd January, 2023

Reference: (CGITA) No- 89/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan,
Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001.
2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

....First Parties

V

Smt. Bhavanaben Bharatbhai,
Ivanagar, Vankarvas,
Via Timbawadi,
Junagadh - 362001.

....Second Party

Adv. for the First Party : Shri H. R. Raval
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/72/2018-IR (DU) dated 04.10.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Indian Council of Agricultural Research-Directorate of Groundnut Research, Junagadh in terminating the services of Smt. Bhavanaben Bharatbhai w.e.f. 01.01.2014 who was working as Casual labour w.e.f. 02/05/1993 is legal and justified? If not, what relief the concerned workman is entitled to and to what extent?”

1. Today, the matter was called out. None responds for either of the parties. The reference dates back to 04.10.2018. The notice Ex. 2 was served on second party by acknowledgement Ex. 3, wherein the second party was asked to submit the statement of claim on 21.06.2019. Second Party / workman has been afforded more than 10 opportunities to file its statement of claim, but for no avail. It appears that the Second Party / workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the action of the management of Indian Council of Agricultural Research-Directorate of Groundnut Research, Junagadh in terminating the services of Smt. Bhavanaben Bharatbhai w.e.f. 01.01.2014 who was working as Casual labour w.e.f. 02/05/1993 is legal and justified.”

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 191.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, डीजीआर कृषि भवन, नई दिल्ली ; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधन के संबद्ध नियोजकों और श्रीमती कुसुमबेन रतिलाल, वनकरवास, द्वारा टिम्बावाड़ी, इवानगर, जूनागढ़, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय- अहमदाबाद के पंचाट (संदर्भ सं. 170/2018) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/74/2018-आईआर –(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 191.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 170/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, DGR Krishi Bhawan, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Kusumben Ratilal, Ivanagar, Vankarvas, via Timbawadi, Junagadh, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42012/74/2018–IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT, AHMEDABAD

Present: Sunil Kumar Singh-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated 2nd January, 2023

Reference: (CGITA) No- 170/2018

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan,
Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001.
2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.
3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

... First Parties

V

Smt. Kusumben Ratilal,
Ivanagar, Vankarvas,
Via Timbawadi,
Junagadh – 362001.

....Second Party

Adv. for the First Party : Shri H. R. Raval
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/74/2018-IR (DU) dated 12.11.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Indian Council of Agriculture Research (DGR), Junagadh Gujarat in terminating the services of workman namely Smt. Kusumben Ratilal w.e.f. 01.01.2014 who was working as Casual labour w.e.f. 19/01/2009 is legal and justified? If not, what relief this workman is entitled to?”

1. Today, the matter was called out. None responds for either of the parties. The reference dates back to 12.11.2018. The notice Ex. 2 was served on second party by acknowledgement Ex. 3, wherein the second party was asked to submit the statement of claim on 21.06.2019. Second Party / workman has been afforded more than 10 opportunities to file its statement of claim, but for no avail. It appears that the Second Party / workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the action of the management of Indian Council of Agriculture Research (DGR), Junagadh Gujarat in terminating the services of workman namely Smt. Kusumben Ratilal w.e.f. 01.01.2014 who was working as Casual labour w.e.f. 19/01/2009 is legal and justified.”

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 192.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, डीजीआर कृषि भवन, नई दिल्ली ; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधन के संबंध में नियोजकों और श्रीमती शांताबेन जेशीभाई, वनकरवास, द्वारा टिम्बावाडी, इवानगर, जूनागढ़, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-अहमदाबाद के पंचाट (संदर्भ सं. 35/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/42/2018-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 192.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/2019) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, DGR Krishi Bhawan, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Shantaben Jeshibhai, Ivanagar, Vankarvas, via Timbawadi, Junagadh, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42012/42/2018-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT, AHMEDABAD

Present : SUNIL KUMAR SINGH-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated 2nd January, 2023

Reference: (CGITA) No-35/2019

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan,
Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001.
2. The Director of Groundnut Research,

National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

....First Parties

V

Smt. Shantaben Jeshibhai,
Ivanagar, Vankarvas,
Via Timbawadi,
Junagadh - 362001.

....Second Party

Adv. for the First Party : Shri H. R. Raval
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/42/2018-IR (DU) dated 30.01.2019 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the termination of the services of workman, namely, Smt. Shantaben Jeshibhai w.e.f. 01.01.2014 (working as Casual labour w.e.f. 25/07/1995) by the Management of Indian Council of Agricultural Research (Directorate of Groundnut Research) Junagarh Gujarat is legal and justified? If not, what relief the workman is entitled and to what extent?”

1. Today, the matter was called out. None responds for either of the parties. The reference dates back to 30.01.2019. The notice Ex. 2 was served on second party by acknowledgement Ex. 3, wherein the second party was asked to submit the statement of claim on 21.06.2019. Second Party / workman has been afforded more than 10 opportunities to file its statement of claim, but for no avail. It appears that the Second Party / workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation “the termination of services of workman, namely, Smt. Shantaben Jeshibhai w.e.f. 01.01.2014 (working as Casual labour w.e.f. 25/07/1995) by the Management of Indian Council of Agricultural Research (Directorate of Groundnut Research) Junagarh Gujarat is legal and justified.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 193.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, डीजीआर कृषि भवन, नई दिल्ली ; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधन के संबंध में निदेशों और श्रीमती कंचनबेन सोमाभाई, वनकरवास, द्वारा टिम्बावाडी, इवानगर, जूनागढ़, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद के पंचाट (संदर्भ सं. 47/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/78/2018-आईआर –(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 193.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/2019) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, DGR Krishi Bhawan, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Kanchanben Somabhai, Ivanagar, Vankarvas, via Timbawadi, Junagadh, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42012/78/2018-IR- (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM -LABOUR COURT,
AHMEDABAD**

Present : Sunil Kumar Singh-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated 2nd January, 2023

Reference: (CGITA) No- 47/2019

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan,
Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001.
2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.
3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

... First Parties

V

Smt. Kanchanben Somabhai,
Ivanagar, Vankarvas,
Via Timbawadi,
Junagadh – 362001.

... Second Party

Adv. for the First Party : Shri H. R. Raval
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/78/2018-IR (DU) dated 04.02.2019 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Indian Council of Agricultural Research-Directorate of Groundnut Research, Junagadh in terminating the services of Smt. Kanchanben Somabhai w.e.f. 01.01.2014 who was working as Casual labour w.e.f. 30/07/2009 without following the provisions of Section 25F and 25G of the Industrial Dispute Act, 1947 is legal and justified? If not, what relief the concerned workman is entitled to and to what extent?”

1. Today, the matter was called out. None responds for either of the parties. The reference dates back to 04.02.2019. The notice Ex. 2 was served on second party by acknowledgement Ex. 3, wherein the second party was asked to submit the statement of claim on 21.06.2019. Second Party / workman has been afforded more than 10 opportunities to file its statement of claim, but for no avail. It appears that the Second Party / workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the action of the management of Indian Council of Agricultural Research-Directorate of Groundnut Research, Junagadh in terminating the services of Smt. Kanchanben Somabhai w.e.f. 01.01.2014 who was working as Casual labour w.e.f. 30/07/2009 without following the provisions of Section 25F and 25G of the Industrial Dispute Act, 1947 is legal and justified.”

3. Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 194.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, डीजीआर कृषि भवन, नई दिल्ली; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधन के संबद्ध नियोजकों और श्रीमती प्रभावेन रमेशभाई, वनकरवास, द्वारा टिम्बावाडी, इवानगर, जूनागढ़, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद के पंचाट(संदर्भ सं. 49/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/76/2018-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 194.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 49/2019) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, DGR Krishi Bhawan, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ;The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Prabhaben Rameshbhai, Ivanagar, Vankarvas, via Timbawadi, Junagadh, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42012/76/2018—IR- (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, AHMEDABAD

Present: SUNIL KUMAR SINGH-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated 2nd November, 2023

Reference: (CGITA) No- 49/2019

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan,
Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001.
2. The Director of Groundnut Research,
National Research Centre for Groundnut,

Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

.... First Parties

V

Smt. Prabhaben Rameshbhai,
Ivanagar, Vankarvas,
Via Timbawadi,
Junagadh - 362001.

... Second Party

Adv. for the First Party : Shri H. R. Raval
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/76/2018-IR (DU) dated 12.02.2019 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Indian Council of Agriculture Research-Directorate of Groundnut Research, Junagadh by terminating the services of Smt. Prabhaben Rameshbhai w.e.f. 01.01.2014 and without following the provisions of Section 25F and 25G of the Industrial Dispute Act, 1947 is legal and justified? If not, what relief the concerned workman is entitled to and to what extent?”

1. Today, the matter was called out. None responded for either of the parties. The reference dates back to 12.02.2019. The notice Ex. 2 was served on second party by acknowledgement Ex. 3, wherein the second party was asked to submit the statement of claim on 21.06.2019. Second Party / workman has been afforded more than 10 opportunities to file its statement of claim, but for no avail. It appears that the Second Party / workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the action of the management of Indian Council of Agriculture Research-Directorate of Groundnut Research, Junagadh by terminating the services of Smt. Prabhaben Rameshbhai w.e.f. 01.01.2014 and without following the provisions of Section 25F and 25G of the Industrial Dispute Act, 1947 is legal and justified.”

3. Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 195.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय कृषि अनुसंधान परिषद, डीजीआर कृषि भवन, नई दिल्ली ; निदेशक, मूंगफली अनुसंधान, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़; प्रशासनिक अधिकारी, राष्ट्रीय मूंगफली अनुसंधान केंद्र, जूनागढ़, के प्रबंधन के संबद्ध नियोजकों और श्रीमती किरणबेन गोबिंदभाई, वनकरवास, द्वारा टिम्बावाड़ी, इवानगर, जूनागढ़, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-अहमदाबाद पंचाट (संदर्भ सं. 55/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42012/34/2018-आई.आर.-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 195.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 55/2019) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Indian Council of Agricultural Research, DGR Krishi Bhawan, New Delhi ; The Director of Groundnut Research, National Research Centre for Groundnut, Junagadh ; The Administrative Officer, National Research Centre for Groundnut, Junagadh, and Smt. Kiranben Gobindbhai, Ivanagar, Vankarvas, via Timbawadi, Junagadh, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42012/34/2018-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, AHMEDABAD

Present : SUNIL KUMAR SINGH-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated 2nd January, 2023

Reference: (CGITA) No- 55/2019

1. The Indian Council of Agricultural Research,
DGR Krishi Bhawan,
Raishina Road, Opp. Railway Bhawan,
New Delhi – 110001.
2. The Director of Groundnut Research,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.
3. The Administrative Officer,
National Research Centre for Groundnut,
Post Box No.-05, Ivanagar Road,
Junagadh - 362001.

... First Parties

V

Smt. Kiranben Gobindbhai,
Ivanagar, Vankarvas,
Via Timbawadi,
Junagadh – 362001.

... Second Party

Adv. for the First Party : Shri H. R. Raval
Adv. for the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/34/2018-IR (DU) dated 26.07.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Indian Council of Agriculture Research (Directorate of Groundnut Research) Junagadh in terminating the services of workman, namely, Smt. Kiranben Gobindbhai w.e.f. 01.01.2014 who was working as Casual labour w.e.f. 10/09/1993) is legal and justified? If not, what relief this workman is entitled to?”

1. Today, the matter was called out. None responds for either of the parties. The reference dates back to 26.07.2018. The notice Ex. 2 was served upon second party by acknowledgement Ex. 3, wherein the second party was asked to submit the statement of claim on 21.06.2019. Second Party / workman has been afforded

more than 10 opportunities to file its statement of claim, but for no avail. It appears that the Second Party / workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the action of the management of Indian Council of Agriculture Research (Directorate of Groundnut Research) Junagadh in terminating the services of workman, namely, Smt. Kiranben Gobindbhai w.e.f. 01.01.2014 who was working as Casual labour w.e.f. 10/09/1993)” is legal and justified.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 196.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सहायक निवासी प्रबंधक, मैसर्स ब्रिज एंड रूफ कंपनी (इंडिया) लिमिटेड, मुंबई, के प्रबंधन के संबद्ध नियोजकों और महासचिव, मजदूर महाजन संघ, जामनगर, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- अहमदाबाद के पंचाट (संदर्भ सं. 184/2018) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42011/133/2017-आई.आर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 196.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 184/2018) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Assistant Resident Manager, M/s.Bridge & Roof Company (India) Limited, Mumbai, and The General Secretary, Majdoor Mahajan Sangh, Jamnagar, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42011/133/2017-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT, AHMEDABAD

Present : Sunil Kumar Singh-I, Presiding Officer,

CGIT cum Labour Court,

Ahmedabad,

Dated : 10.01.2023

Reference: (CGITA) No- 184/2018

The Assistant Resident Manager,
M/s.Bridge & Roof Company (India) Limited,
Priyadarshini Building, Eastern Express Highway,
Mumbai – 400022.

... First Party

V

The General Secretary,
Majdoor Mahajan Sangh,
210-A-One Complex,
Opp. Engineer Office, K V Road,
Jamnagar – 361001.

... Second Party

Adv. for the First Party employer : None

Adv. for the Second Party workman : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42011/133/2017-IR(DU) dated 17.12.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand by workman Sh Vivek Pratap Singh, working as Junior Mechanic from 15.07.2005 till his retrenchment on 12.12.2016, of reinstatement in services in the Management of Bridge & Roof Company (India) Limited along with other consequential benefits is fair, just & legal? If so, to what benefits the workman is entitled to and to what extent?”

1. Today, the matter was called out. None responded for either of the parties. The reference dates back to 17.12.2018. Notice Exh. 2 was issued to the parties, wherein the parties were asked to submit their respective claims under reference. A period of over four years has elapsed, yet no statement of claim has been filed as directed by the Ministry. It appears that the Second Party workman is not interested to proceed further in the matter.

2. The reference is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the demand by workman Sh Vivek Pratap Singh, working as Junior Mechanic from 15.07.2005 till his retrenchment on 12.12.2016, of reinstatement in services in the Management of Bridge & Roof Company (India) Limited along with other consequential benefits is not fair, just & legal. The concerned workman is not entitled for any relief.”

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 197.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमांडेंट (जेजी), कमांडर के कार्यकारी अधिकारी, मेसर्स तटरक्षक डीएचक्यू-1 (गुजरात), पोरबंदर, के प्रबंधन के संबद्ध नियोजकों और सचिव, गुजरात अर्द्धसरकारी औद्योगिक कर्मचारी संघ, अहमदाबाद (गुजरात), के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-अहमदाबाद के पंचाट (संदर्भ सं. 62/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-14011/20/2017-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 197.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 62/2019) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Commandant (JG), Executive Officer for Commander, M/s. Coast Guard DHQ-1 (Guj), Porbandar, and The Secretary, Gujarat Ardhsarkari Audhyogik Karmachari Sangh, Ahmedabad (Gujarat), which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-14011/20/2017-IR -(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,
AHMEDABAD

Present: Sunil Kumar Singh-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated : 19.01.2023

Reference: (CGITA) No- 62/2019

The commandant (JG),
Executive Officer for Commander,
M/s. Coast Guard DHQ-1 (Guj), Post Box No.25,
Porbandar – 360575.

... First Party

V

The Secretary, Gujarat Ardhsarkari Audhyogik Karmachari Sangh,
15, Shashi Apartment, Near Swaminarayan Avenue,
Jawaharnagar, Vasna Road,
Ahmedabad (Gujarat) – 380007.

....Second Party

Adv. for the First Party employer : Shri Bhagyoday Mishra
Adv. for the Second Party workman : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-14011/20/2017-IR(DU) dated 15.02.2019 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Commandant Coast Guard DHQ-1 (Gujarat) Porbandar by not regularizing the service of Sh. Anil Bundalia, designated as Part time Driver and not paying minimum wages is legal? If so, what relief the concerned workmen, Sh. Anil Bundalia, is entitled to and from which date and what other directions are necessary in the matter?”

1. Today, the matter was called out. First Party employer represented through Assistant Commandant Shushri Shakshi Sharma who has appeared in person along with her Lawyer Shri Bhagyoday Mishra. Second Party/Workman is absent despite sufficient service vide Ex.4. The reference dates back to 15.02.2019. A period of about four years has elapsed. The workman has neither turned up nor filed his Statement of claim despite service. It appears that the Second Party workman is not interested to proceed further in the matter. The referred claim of the workman is not substantiated by any evidence.

2. The reference is answered against the workman accordingly.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 198.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य महाप्रबंधक, पश्चिमी दूरसंचार परियोजना, भारत संचार निगम लिमिटेड, सांताक्रुज (पश्चिम), मुंबई; उप महाप्रबंधक, पश्चिमी दूरसंचार परियोजना, भारत संचार निगम लिमिटेड, अहमदाबाद (गुजरात), के प्रबंधन के संबद्ध नियोजकों और श्री एस.जी. भट्ट, कामगार, द्वारा सर्किल सचिव, बीएसएनएल मजदूर संघ, अहमदाबाद (गुजरात), के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय- अहमदाबाद के पंचाट (संदर्भ सं. 110/2012) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-40011/01/2012-आईआर –(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 198.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 110/2012) of the Central Government Industrial Tribunal cum Labour Court - Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to The Chief General Manager, Western Telecom Project, Bharat Sanchar Nigam Ltd., Santacruz (West), Mumbai ; The Dy. General Manager, Western Telecom Project, Bharat Sanchar Nigam Ltd., Ahmedabad (Gujarat), and Shri S. G. Bhatt, Worker, through The Circle Secretary, BSNL Mazdoor Sangh, Ahmedabad (Gujarat), which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-40011/01/2012 –IR -(DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT, AHMEDABAD

Present - SUNIL KUMAR SINGH-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated 11th January, 2023

Reference (CGITA) No. 110/2012

1. The Chief General Manager,
Western Telecom Project, Bharat Sanchar Nigam Ltd.,
B Wing, Administrative Building, Telecom Juhu Road,
Santacruz (West), Mumbai
2. The Dy. General Manager,
Western Telecom Project, Bharat Sanchar Nigam Ltd.,
Gujarat Area, 2nd Floor, M/W Building,
Behind Telephone Bhawan, CG Road,
Ahmedabad (Gujarat)

... First Party / Employer

V

The Circle Secretary,
BSNL Mazdoor Sangh,
5, Madhuvan Bungalows, Ghodasar,
Ahmedabad (Gujarat)
(For the workman Shri S. G. Bhatt)

... Second Party / Union / Workman

Advocate for the First Party / Employer
For the Second Party / Workman

: Shri N. K. Trivedi
: Shri Sunil G. Bhatt

(Party in person)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-40011/01/2012–IR(DU) dated 20.07.2012 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Chief General Manager, Western Telecom Project Bharat Sanchar Nigam Ltd. Mumbai and Dy. General Manager, Western Telecom Project Gujarat area, BSNL Ahmedabad in not granting ty-status by considering his service for the period from 7.11.89 to 17.12.1993 to Shri S.G. Bhatt, casual labour at par with his juniors and not regularising his services and granting re-employment instead of reinstatement contrary to orders of Industrial Tribunal is justified? If not, what relief the workman is entitled to?”

1. The reference dates back to 20.07.2012. At the very outset, it is worth mentioning that initially the workman filed a case no. 456/1995 before Central Administrative Tribunal, Ahmedabad which was dismissed for lacking jurisdiction. Thereafter a reference no. 67/2000 was received in the then Central Industrial Tribunal, Ahmedabad, which passed an 'award' on merit vide order dated 30.07.2002 and ordered the reinstatement of the workman Shri Sunil G. Bhatt on his original place as daily wager without back wages and the termination order dated 28.08.1992 was set aside on the ground of being unjust and illegal. The employer, instead of reinstatement, reemployed him and did not treat his continuity of service and as such, no consequential benefits were given to the workman, hence this reference.

2. The workman has filed his statement of claim at Ex. 4 with the averment that he was employed as casual labour on 01.06.1988 and worked till 20.08.1992. He was permitted leave of absence from 21.08.1992 (mistakenly typed as 21.09.1992) to 24.08.1992 and further got it extended from 25.08.1992 to 27.08.1992 due to his father's fatal accident. The employer illegally terminated him w.e.f. 28.08.1992. He has averred that despite award dated 30.07.2002 passed by the Industrial Tribunal, Ahmedabad, for his 'reinstatement', he was reemployed on 18.07.2003 contrary to the award and denied him continuity of service and consequential benefits. The workman has further pleaded that the employer did not consider him for the grant of temporary status at par with his junior casual labours under the existing departmental scheme, which was circulated by letter dated 07.11.1989. The workman has specified that two of his juniors / casual labours Mr. J. N. Patel and Mr. B. B. Thakore who joined after him on 01.08.1988, were given benefit of temporary status / regularization under the existing departmental scheme. The request of the workman for granting temporary status / regularization was turned down by the employer on the behest that the Tribunal has not passed specific order in respect of his continuity of service. Prayed for treating the period from 22.08.1992 to 17.07.2003 as continuous service and for consequential benefits and for the grant of status of regular mazdoor / temporary regular mazdoor at par with co-workers / juniors under the said scheme.

3. The first party no. 1 and 2 / employers have jointly filed their written statement at Ex. 9 denying the averment of the workman's claim and pleaded that the workman was not in the employment of the first party from 21.08.1992 as he was not entitled to any leave for the duration from 22.08.1992 to 27.08.1992. It is further pleaded that the Tribunal, in its award passed in Reference (ITC) No. 67/2000, has not given any direction regarding continuity of service / break period, hence his service was not treated as continuing one. It is further stated that due to break in service, the workman was not entitled for any benefit of existing departmental scheme for the grant of temporary status / regularization, hence, prayed to dismiss the workman's claim.

4. The workman filed his additional pleadings Ex. 10 in line with his original claim refuting attempted clarifications given in the written statement by the first party / employer.

5. The workman filed documentary evidence detailed as under:

Sl. No.	Name / Details of the document	Date of Document	Number of Document	Type / Remarks
1	Order from AGM (Admn.) O/o CGM, WTP, Mumbai to Shri Sunil G. Bhatt	15.07.2003	Annexure 3	Original
2	Unsigned letter from DET, M/W Project, Ahmedabad to Dy. General Manager, Ahmedabad	18.07.2003	Annexure 4	Xerox
3	Work resumption report by Shri S.G. Bhatt	18.07.2003	Annexure 5	Xerox
4	Letter from Asstt. D.G. (Pers-IV), New Delhi to The Chief General Manager, BSNL, Mumbai	08.07.2003	Annexure 6	Xerox
5	Letter from Dy. G.M. (P&A), O/o CGM, WTP, Mumbai to The General Manager (Estt.), BSNL Corporate Office, New Delhi	27.04.2011	Annexure 7	Xerox
6	Letter (reminder II) from General Manager (HQ), Mumbai to The General Manager (Estt.), BSNL Corporate Office, New Delhi	02.08.2010	Annexure 8	Xerox
7	Letter from Desk Officer, Ministry of Labour, New Delhi to The Secretary, Industrial Tribunal, Ahmedabad along with xerox copy of award dated 30.07.2002 (Gujarati Language) passed in ITC Case No. 67/2000	16.08.2002	Annexure 9	Xerox
8	English translation of award	30.07.2002	Annexure 10	Xerox
9	Order no. 270/6/84-STN from D.G. (P&T), New Delhi to All Telecom / Districts etc.	30.03.1985	Annexure 11	Xerox

10	Order no. 269-64/83-STN from DoT, New Delhi in respect of regular absorption of casual mazdoors in Group 'D' posts	23.04.1987	Annexure 12	Xerox
11	Order no. 269-29/87-STN from DoT, New Delhi in respect of regularization of casual labourers	01.11.1988	Annexure 13	Xerox
12	Casual Labour (grant of temporary status & regularization) 1989 scheme enforceable from 01.10.1989	01.10.1989	Annexure 14	Xerox
13	Report of Additional Solicitor General, GOI, New Delhi	Illegible	Annexure 15	Xerox
14	Order no. 269-4/93-STR from DoT, New Delhi in respect of casual labourers (grant of temporary status and regularization) etc.	17.12.1993	Annexure 16	Xerox
15	Extract from Tele-Gujarat May 2004 issue	05.05.2004	Annexure 17	Xerox
16	RTI report with annexures from CPIO & Add. G.M. (TP), Gujarat Area, Ahmedabad	30.03.2011, 04.04.2011 & 07.04.2011	Annexure 18-20	Xerox
17	Reminder letter from Shri Sunil G. Bhatt for the grant of temporary status	22.11.2006	Annexure 21	Xerox
18	Government orders regarding service benefits to casual labours	14.05.1968 & 10.03.1986	Annexure 22	Xerox
19	Office Memorandum of D/o Telecom, New Delhi	30.09.2000	Annexure 24	Xerox
20	Record of discussions between three federations & CMD, BSNL	02.01.2001	Annexure 25	Xerox
21	Order passed by Hon'ble Supreme Court of India in Civil Appeal No. 292 of 2009 in BSNL Jammu V Teja Singh	16.01.2009	Annexure 26	Xerox
22	Adm. letter no. 269-3/92-STN from DoT, New Delhi	21.10.1992	Annexure 27	Xerox
23	Letter from Dy. General Manager (P&A), Mumbai for regularization of casual labourers / TRM etc.	01.11.2011	Annexure 28	Xerox
24	RTI report with annexures	04.04.2011 & 07.04.2011	38 & 39	True Copy
25	RTI report from Western Telecom, Gujarat Area, Ahmedabad to Shri Sunil G. Bhatt with annexures	08.04.2016	--	Original

6. The second party / workman Shri Sunil G. Bhatt has deposed himself at Ex. 11 in his oral evidence.

7. The first party / employer has filed documentary evidence detailed as under:

Sl. No.	Name / Details of the document	Date of document	Number of Document	Type / Remarks
1	Letter no. 269-94/98-STN-II dated 29.09.2000 from Assistant Director General (STN), D/o Telecom, New Delhi reg. Regularization of casual labourers with annexures	29.09.2000	Ex. 21/1, Ex. 21/2 & Ex. 21/3	Xerox
2	Letter reg. discussions between three federations & CMD BSNL etc. with annexures	02.01.2001	Ex. 21/4 & Ex. 21/5	Xerox

8. The first party / employer has got Mr. Rajesh M. Wani, Divisional Engineer, Telecom, Microwave Project, M/W Building, Navrangpura, BSNL, Ahmedabad, examined in oral evidence at Ex. 20.

9. Perused the records and heard Shri N.K. Trivedi, advocate for the first party / employer in addition to his written argument at Ex. 24 and the workman Shri Sunil G. Bhatt, in person, at his written request at Ex. 26 in addition to his written arguments at Ex. 17, Ex. 18 and argument dated 08.03.2018 (without exhibit/number).

10. The main point for consideration under reference is as under:

“Whether the workman is entitled for the grant of temporary status / regularisation by treating his service in continuity from 07.11.1989 to 17.12.1993 at par with his juniors? If yes, the effect thereof?”

11. The workman, in his written submissions, has mentioned that the first party / employer has intentionally not complied the award of the Tribunal dated 30.07.2002 passed in Reference (ITC) No. 67/2000 by not treating continuity in service. Consequential benefits like grant of temporary status / regularization at par with his juniors and co-workers, has not been granted to him. He has requested to direct the employer to treat his continuity of service and grant all consequential benefits.

12. Ld. Counsel for the first party / employer has argued that there is no order of Tribunal in respect of the continuity of service; hence the workman is not entitled for any claimed benefits. The employer has cited Secretary, State of Karnataka and ors V Umadevi and ors, 2006 SCC (L&S) 753 and Bharat Sanchar Nigam Ltd., Jammu V Teja Singh, Civil Appeal No. 292/2009 (arising out of SLP(C) No. 7803/2006) [order dated 16.01.2009]. Teja Singh (supra) has reiterated the law laid down by Umadevi (supra).

13. It is pertinent to mention here that an award dated 30.07.2002 was passed by the Central Industrial Tribunal, Ahmedabad in Reference (ITC) No. 67/2000 between the parties on merit. Admittedly, none of the parties has challenged the award at any higher forum; hence, this award has become final.

14. According to the award dated 30.07.2002, it was held that the workman had worked as a daily wager for 240 days during 12 months before his retrenchment. The Tribunal, in its operating part of the award, has clearly directed that the second party Shri Sunil G. Bhatt be reinstated without any back wages on his original place as a daily wager and the termination order dated 28.08.1992 was set aside on the ground of being unjust and illegal.

15. The workman in his deposition at Ex. 11 has supported the averment of his claim and specifically pleaded that his juniors / casual labours Mr. J. N. Patel and Mr. B. B. Thakore, employed on 01.08.1988, have been granted temporary status of regular mazdoor from 25.06.1993 according to the departmental scheme of 1989 circulated by the letter dated 07.11.1989 from the Department of Telecom, New Delhi and both these co-workers were regularised from 01.04.1999 and 09.12.1999 respectively, whereas the present workman Sunil G. Bhatt has neither been granted temporary status of regular mazdoor nor regularised under the scheme. The first party / employer has not been able to get anything adverse from the cross-examination of this witness.

16. The employer's witness Mr. Rajesh M. Wani, examined at Ex. 20, has not denied the grant of temporary status / regularization of aforesaid two casual labours, who were junior to present workman. Hence it is abundantly clear that co-workers / junior casual labours have been given benefit of the departmental scheme for granting temporary status to casual labours. However the witness stated that after the judgement dated 10.04.2006 passed by Hon'ble Supreme Court in Umadevi (supra), the scheme for grant of temporary status and regularisation framed by the Department of Telecom and others, is not legally tenable now.

17. In this view of above, the judgement passed by the Division Bench of Hon'ble Gujarat High Court in Virendrabhai Chaudhari and 35 ors. V Union of India and ors., SCA 13222/2014 (DB) is relevant. This case was filed before the Hon'ble Gujarat High Court on behalf of 36 workmen. Division Bench of Hon'ble Gujarat High Court vide its order dated 23.02.2015, referred its earlier judgement dated 12.01.2015 passed in Ashok Virambhai Kargatia V Union of India, in Special Civil Application No. 9721/2014. The relevant Para 15 reads as under:

“.....Even in the constitutional bench judgement in the case of Secretary, State of Karnataka V Umadevi (supra), the Supreme Court has kept a window open for consideration of regularisation of those workmen who had rendered more than 10 years of service. While doing so, it was, of course, provided that such benefit would not flow in favour of litigious employees. The basis of this was that one who enjoyed interim protection of Courts successively by challenging termination from service, cannot then argue that having rendered continuous service for years together, he should be considered for regularization. The facts of the present case were starkly different. The petitioner had to battle before different Courts for having his termination declared illegal. Once such declaration was made, he was entitled to full benefits flowing from the final directions of reinstatement with continuity. Such judgement of the Industrial Tribunal had become final. The department could not have taken shelter of the exclusion clause contained in the judgement of Secretary, State of Karnataka and others vs. Umadevi and others (supra) nor could have the Tribunal non-suited the petitioner on this ground. To reiterate, the petitioner had succeeded before the Court of competent jurisdiction in establishing that his termination by the department was illegal with further direction for reinstatement with continuity. That being so, he was entitled to all consequential benefits. It is not the case of the respondents that he was not covered by the scheme of temporary status and regularization in service. They have also not denied that other employees engaged after him have got such benefit of temporary status and regularization long back. Unfortunately, since the case of the petitioner for reinstatement got tangled in one legal dispute after another, the final direction for reinstatement got delayed. He, therefore, did not get the same benefits which his co-workers and juniors received.....”

18. According to the letter no. E-42/casual labour/2014-15/40 dated 20.11.2015, issued by AGM (Adm.), BSNL, Bhavnagar, it is traced that the first party / employer filed SLP (C) No. 18828/2015 before Hon'ble Supreme Court of India against the order dated 23.02.2015 passed by the Division Bench of Hon'ble Gujarat High Court in above referred SCA No. 13222/2014, Hon'ble Supreme Court vide its order dated 26.10.2015, has dismissed the said SLP. Hence the effect of Umadevi (supra) has already been examined by Hon'ble Supreme Court itself, sustaining the order of Division Bench of Hon'ble Gujarat High Court in above Special Civil Application No. 13222/2014.

19. As far as the absence of phrase 'continuity in service' in award dated 30.07.2002 is concerned, the intention of the first party / employer can be gathered from the letter dated 15.07.2003 as annexure-3, issued by A.G.M. (Adm.), O/o CGM, WTP, Mumbai, which speaks to offer reemployment to Shri Sunil G. Bhatt instead of his reinstatement. The workman, under compulsion, resumed duty w.e.f. 18.07.2003 according to the resumption report dated 18.07.2003 (annexure-5). The first party / employer has not treated continuity of service in respect of the workman. The effect of setting aside the dismissal order and placing the workman on original place clearly indicates that on reinstatement in service after setting aside the order of termination, notional continuity of service could not have been denied for consequential benefits to workman.

20. For the better understanding of the term, 'reinstatement', The case of Panchabhai Motibhai Rebadiya V State of Gujarat, 2022 (174) FLR 413 (Guj.), is relevant. In this case of 'reinstatement' without back wages, there was no mention of 'continuity of service'. Hon'ble Gujarat High Court held that if it is not expressly denied, it has to be read into the award. Respondents should have given the benefit of continuity of service to the employee from the initial date of appointment. Hon'ble Gujarat High Court referred Nandkishore Shravan Ahirrao V Kosan Industries (P) Ltd., 2020 (165) FLR 587 (SC), wherein the preposition of law was reiterated. In that case, the Labour Court had not specifically denied the continuity of service. The Hon'ble Supreme Court observed that the appellant would be entitled to continuity of service. Hon'ble Gujarat High Court has also defined the term 'reinstatement' in Vasantika R. Dalia V Baroda Municipal Corporation, 1998 (78) FLR 453 (Guj.), as to means reinstatement with the continuity of service unless specifically denied. Denial of relief of back wage does not mean denial of continuity of service. In Executive Engineer, Panchayat (R & B) Division V Punabhai Govindbhai, 1994 (1) CLR 64 (Guj.) (DB), Division Bench of Hon'ble Gujarat High Court has held that 'reinstatement' of daily wage worker would mean maintaining his position in the seniority list with continuity of service as per his ranking in the seniority list. Hence, it is abundantly explicit that under the award dated 30.07.2002, once the workman was reinstated and the order of termination was set aside, the positive and constructive effect of the order in respect of 'continuity in service' was clear. The employer should have pro-actively complied the award for the advancement of justice.

21. The action of the management of the first party / employer in not granting 'temporary status' by considering the service for the period from 07.11.1989 to 17.12.1993 to Shri Sunil G. Bhatt, casual labour, at par with his juniors and not regularizing his service on granting reemployment instead of reinstatement contrary to the order of Industrial Tribunal is not at all justified. The point for consideration under reference is decided in favour of the workman, hence he is entitled to the claimed relief.

22. According to various written submissions of the workman, it appears that he has superannuated on 30.09.2017 and suffered injustice for about 21 years despite the award dated 30.07.2002 passed in his favour. Under the circumstances, the first party employers are directed to grant the benefit of temporary status and regularization of the second party workman Shri Sunil G. Bhatt notionally in terms of the scheme of the department from the respective date when his immediate juniors received such benefits treating his continuity in service notionally with all consequential benefits including retiral benefits if any, within two months from the date of publication of the award.

23. The reference is answered accordingly.

Let two copies of the Award be sent to the appropriate Government for the needful and for publication.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 14 फरवरी, 2023

का.आ. 199.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार क्षेत्रीय अधिकारी, केन्द्रीय माध्यमिक शिक्षा बोर्ड, क्षेत्रीय कार्यालय, अजमेर (राज.), के प्रबंधन में केन्द्रित नियोजकों और श्री अशोक कुमार कुमावत, कामगार के बीच अनुबंध में निर्दिष्ट श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर, विवाद में अजमेर, के पंचाट आई टी (केन्द्रीय)-14/2020(सीआईएस-56/2020) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14/02/2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-63-आई.आर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 14th February, 2023

S.O. 199.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award I.T.(Central)- 14/2020 (CIS -56/2020) of the Labor Court and Industrial Tribunal, Ajmer, as shown in the Annexure, in the Industrial dispute between the employers in relation to The Regional Officer, Central Board of Secondary Education, Regional Office, Ajmer- (Raj.) and

Shri Ashok Kumar Kumawat, Worker, which was received along with soft copy of the award by the Central Government on 14/02/2023.

[No. L-42025/07/2023-63-IR (DU)]

D. K. HIMANSHU, Under Secy.

अनुबंध

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर पीठासीन अधिकारी—श्री रामेश्वर प्रसाद चौधरी,
आर.एच.जे.एस

प्रकरण संख्या— सी.आई टी.आर. 14/2020

सी आई एस नं. 56/2020

रेफरेंस संख्या— एजे-8/2/2020—आईआर दिनांक 10.12.2020

Ashok Kumar Kumawat House no. 1-CHA-11,

Janta Colony, Vaishali Nagar, Ajmer (Raj.)

...प्रार्थी

बनाम

The Regional Officer, Central Board of Secondary

Education, Regional Office, Todarmal Marg, Ajmer(Raj.)

...अप्रार्थी/नियोजक

उपस्थिति

प्रार्थी की ओर से

श्री विजय मिश्रा, अधिवक्ता ।

अप्रार्थी की ओर से

श्री शोभित पंत अधिवक्ता ।

दिनांक 7.10.2022

अवार्ड

1. श्रम विभाग, केंद्र सरकार द्वारा इस अधिकरण के अधिनिर्णयार्थ निम्न रेफरेंस प्रेषित किया गया है:-

"Whether the action of the Management of Regional Officer, Central Board of Education Regional office, Ajmer in terminating the services of Shri Ashok Kumar Kumawat w.e.f. 01-11-2019 is legal and justified? If not, to what relief the concerned workmen is entitled and from which date?"

2. रेफरेंस प्राप्त होने पर न्यायालय द्वारा प्रार्थी पक्ष को नोटिस जारी करने पर प्रार्थी की ओर से स्टेटमेंट आफ क्लेम पेश किया गया तथा अप्रार्थी को नोटिस जारी किए गए। अप्रार्थी की ओर से दिनांक 8.11.2021 को एक प्रार्थनापत्र पेश कर कथन किया गया कि प्रार्थी का स्टेटमेंट ऑफ क्लेम उप मुख्य श्रम आयुक्त, केन्द्रीय अजमेर के द्वारा जारी विवादक के अनुरूप नहीं होने से निरस्त किया जाये और प्रार्थी द्वारा स्वेच्छया पक्षकार बनाए जाने से मूल क्लेम प्रकरण को खारिज करने की प्रार्थना की गई। उक्त प्रार्थनापत्र का जवाब प्रस्तुत करने के उपरांत प्रार्थी पक्ष ने जाहिर किया कि उनकी ओर से रेफरेंस में संशोधन के लिए प्रयास किए गए थे किन्तु उप श्रम आयुक्त, केन्द्रीय, अजमेर के पत्रांक एजे-8(2)/6/2020—आईआर दिनांक 11.8.2022 के पत्र जिसकी मूल प्रति दिनांक 19.9.2022 को न्यायालय के समक्ष पेश कर कथन किया गया है कि उप श्रम आयुक्त, केन्द्रीय अजमेर ने मामला कोर्ट में लंबित होने एवं उनके स्तर पर कोई और बदलाव संभव नहीं होना बताते हुए रेफरेंस में संशोधन से इंकार कर दिया है।

3. प्रार्थी ने मय अधिवक्ता आज न्यायालय के समक्ष उपस्थित होकर कथन किए गए हैं कि रेफरेंस अपर्याप्त होने से वे पुनः रेफरेंस कार्यवाही कर पुनः स्टेटमेंट आफ क्लेम पेश करना चाहते हैं। अतः इस प्रकरण को पुनः पेश करने की अनुमति देते हुए नोट—प्रेस के आधार पर खारिज किए जाने की प्रार्थना की गई है। सभी पक्षों को सुना गया। प्रार्थी की प्रार्थना अनुसार पुनः पेश करने की सुविधा देते हुए यह प्रकरण नोट—प्रेस के आधार पर खारिज किया जाना न्यायोचित प्रतीत होता है।

आदेश

4. अतः उक्त विवेचनानुसार उक्त निर्देशित विवाद में प्रार्थी की प्रार्थना अनुसार पुनः स्टेटमेंट ऑफ क्लेम पेश करने की सुविधा देते हुए यह प्रकरण नोट-प्रेस के आधार पर खारिज करते हुए कोई विवाद शेष नहीं अवार्ड (No Dispute Award) पारित किया जाता है।

5. अवार्ड लिखाया जाकर आज दिनांक 7.10.2022 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया। अवार्ड की प्रति नियमानुसार केंद्र सरकार को वास्ते गजट में प्रकाशन प्रेषित की जावे ।

रामेश्वर प्रसाद चौधरी, न्यायाधीश

नई दिल्ली, 15 फरवरी, 2023

का.आ. 200.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑफिसर कमांडिंग, 340 कंपनी ए.एस.सी (आपूर्ति) 56 ए.पी.ओ के प्रबंधन के संबद्ध नियोजकों और श्री शाम नारायण, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 चंडीगढ़ के पंचाट (संदर्भ सं. 67/2013) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07/02/2023 को प्राप्त हुआ था।

[सं. एल-14012/02/2013-आईआर-(डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 15th February, 2023

S.O. 200.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/2013) of the Central Government Industrial Tribunal cum Labour Court –I, Chandigarh, as shown in the Annexure, in the Industrial dispute between the employers in relation to Officer Commanding, 340 Coy, A.S.C (Supply) 56 A.P.O, and Shri Rama, Worker which was received along with soft copy of the award by the Central Government on 07/02/2023.

[No. L-14012/02/2013-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No. 67/2013

Registered on:-10.06.2013

Sh. Rama, S/o Shri Dayal Chand,
B-16/200, Shahi Samadha, Patiala, Punjab

... Workman

Versus

1. Officer Commanding, 340 Coy,
A.S.C. (Supply) 56 A.P.O.

.... Respondent/Management

Appearance

For the Workman: None

For the Management : Sh. Anish Babbar, Ld Counsel for Management

AWARD**Passed On:- 23.12.2022**

Central Government vide Notification No.L-14012/02/2013-IR(DU) dated 24.05.2013, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of the Officer Commanding 340 COY, A.S.C. (Supply) in terminating the services of Sh. Rama S/o Sh. Dayal Chand, Ex-Casual worker w.e.f. 24.07.1998 is justified or not? To what relief the workman is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities but none turned up. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance none appeared on behalf of the workman to prove his cause against the respondent/management. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.67/2013.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 201.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स स्टील अथॉरिटी ऑफ़ इंडिया लिमिटेड, फरीदाबाद (हरियाणा) के प्रबंधन के संबंध में नियोजकों और श्री तुलसी दत्त, फरीदाबाद (हरियाणा) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (रिफरेंस नं.- 78/2014) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.02.2023 को प्राप्त हुआ था।

[सं. एल-29012/45/2013-आई.आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 201.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 78/2014) of the Central Government Industrial Tribunal cum Labour Court-2, New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s Steel Authority of India Limited, Faridabad (Haryana) and Shri Tulsi Dutt, Faridabad (Haryana) which was received along with soft copy of the award by the Central Government on 16.02.2023.

[No. L-29012/45/2013-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. PRANITA MOHANTY,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE No. 78/2014

Date of Passing Award- 24th January, 2023.

Between:

Shri Tulsi Dutt,
S/o Late Shri Ganga Dutt,
C/o- Shri Hoob Lal Yadav, General Secretary, Mercantile,
Employees Association, House No. 530,
Near Prem Public School, Dayal Nagar,
PO Amar Nagar, Faridabad, 121003.

....Workman

Versus

M/s. Steel Authority of India Ltd., Steel Stock Yard-I,
Sector-5, Mathura Road,
Faridabad (Haryana),
Faridabad.

... Management

Appearances:-

Shri Subhash Chandra
(Advocate)
Ms. Jaya Tomar
(Advocate)

For the Workman

For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Steel Stock Yard-I, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 29012/45/2013 (IR(M) dated 03/04/2014 to this tribunal for adjudication to the following effect.

“Whether applicant Shri Tulsi Dutt is the workman of the Management of the Manager, M/S Steel Authority of India Ltd, Faridabad? If yes, whether the action of the management in terminating the service of Sh. Tulsi Dutt w. e. f. 1.08.2007 is legal and justified? What relief the workman is entitled to”

As narrated in the claim petition, the claimant workman was working as the canteen boy in the establishment of the management since December 1986 on a monthly salary was Rs 2500/-. His place of work was Steel Stock Yard-I, Sec 5 Mathura Road, Faridabad, Haryana. On 1.08.2007, his service was terminated by a verbal order and he was not allowed to perform his duty which amounts to termination of service. At the time of termination no notice of termination, notice pay or termination compensation was paid to him. The management even did not pay his duty pay and overtime wage for the month of July 2007. The provisions of sec 25F, 25G and 25H, were not complied, which amounts to unfair labour practice. During the period of his employment, his service record was unblemished and no disciplinary action was ever taken against him. He was working under the supervision and control of the management and getting his monthly salary from the said management. Thus the claimant has prayed for the relief of reinstatement with full back wages and continuity of service.

In the written statement filed, the Respondent has challenged the merit of the claim on various grounds including the maintainability of the proceeding. It has been stated that no employer employee relationship exists between the Respondent and the claimant as at no point of time the later was employed by them. Neither he was issued any letter of appointment nor paid salary/wage by the Respondent Management for the alleged period of employment. Thus the allegation of illegal termination of service or subjecting him to unfair labour practice is unfounded. SAIL is a public sector undertaking having it's own Rules and procedure for appointment. No post

like canteen boy ever exists in the establishment of the Management. The claimant was never appointed as the canteen boy in the stock yard or the branch sales office Faridabad. For SAIL, once a person is appointed, he is issued with the appointment letter followed by allotment of employee code No. the person is required to sign the attendance Register maintained in the office where he works. He is being paid salary by SAIL and salary slip is issued him at the end of the month. The claimant has failed to produce any of the documents nor any other evidence to prove his relationship with the management as it's employee. The grievance of illegal termination raised twice by the claimant before the special secretary, labour Dept, Govt. of Haryana was rejected twice for want of evidence. On that ground alone the claim is not maintainable. Moreover, the dispute raised is not an Industrial Dispute and the claimant has no cause of action to raise the dispute. Hence the management prayed for rejection of the claim.

The claimant filed rejoinder denying all the stand taken by the Respondent in the written statement.

On these rival pleadings the following issues were framed for adjudication.

ISSUES

- 1- Whether Sri Tulsi Dutt is the workman of the management M/s Steel Authority of India Ltd, Faridabad? if so, it's effect.
- 2- If yes, whether the action of the management in terminating the service of Sh Tulsi Dutt w.e.f. 01.08.2007 is legal and justified? If so, it's effect.
- 3- To what relief the workman is entitled to and from which date.

The claimant examined himself as WW1 and produced a series of documents, which are photocopies of the letter written by the claimant to the in-charge of SAIL Faridabad requesting payment towards the food supplied on different dates. Those three letters have been exhibited as WW1/1 to WW1/3 and A-1 TO A-21. Besides those, the claimant has filed photo copies of several vouchers of different dates evidencing payment of canteen subsidies of the yard employees of SAIL, through one Rajpal Singh. The documents also include payment vouchers showing payment to the claimant for serving tea and coffee to the guests in the stock yard of SAIL at Faridabad. The Respondent examined one A. K. Srivastav, the AGM of SAIL as MW1, who produced the letters of the Special Secretary, Dept of Labour, Govt. of Haryana addressed to the claimant intimating that the documents filed by the claimant do not prove his status as an employee of SAIL Faridabad. The reply filed by the Respondent before the labour commissioner during the conciliation has also been filed along with the evidence. Those documents were marked as MW 1/1 to MW 1/3.

The learned AR for the management during argument emphasized that the burden lies on the claimant to prove employer employee relationship, when the Respondent has specifically denied the same. The documents produced by the claimant no way proves the said relationship. When the claimant was not employed by the Respondent, the allegation of illegal termination is a misconception of fact and liable to be dismissed with cost, since the claimant was sufficiently informed by the special secretary, Govt. of Haryana that his claim to be an employee of SAIL is unfounded. Relying on the judgment of the **Hon'ble SC in the case of Workmen of Nilgiri coop Mkt Society vs. State of Tamilnadu and others**, and in the case of **Shambhu and others vs. Sugan Drycleaners and others, decided by the Hon'le High Court of Delhi**, he also argued that in absence of convincing evidence the Tribunal cannot accept the claim qua employer employee relationship.

In his counter argument the learned AR for the claimant submitted that in the case of **Chief Regional Manger, Oriental Insurance Co Ltd vs. PO, CGIT Chandigarh and Others the Hon'ble High Court of Punjab and Haryana**, on similar facts, came to hold that when the Respondent terminated the service of the workman without complying with the provisions of ID Act and failed to produce the original documents, the same amounts to unfair labour practice and the workman is entitled to the relief sought for.

It is pertinent to mention here that the claimant in this case had filed an application seeking a direction to the management to produce the original documents. But the Respondent denied possession of the documents on the ground that the claimant was never employed by them. Hence by order dated 18/10/2016, the claimant was given the liberty of adducing secondary evidence.

FINDING

ISSUE No. 1

This being the most important issue having decisive effect on the other issues has been taken up for consideration first. The claimant in the claim statement and in the affidavit filed as evidence has stated that he was appointed as a canteen boy in the yard of the Management at Faridabad in the month of December 1986 on

a monthly salary of Rs 2500/- and had worked continuously till 01.08.2007, when his service was terminated illegally by a verbal order. During the employment he was working under the supervision and control of the Respondent to the utmost satisfaction of the employer. The Management in the WS disputed the stand of the claimant as an employee of the Management. In the WS as well as the witness of the Management has stated the SAIL being a public sector undertaking has its own rules and procedure for Recruitment. Once a person is recruited and appointed, he is granted an employee no. he also gets his salary paid by SAIL and at the end of the month salary slip is granted to him. He is required to sign the Attendance Register maintained by the management. But the claimant since failed to produce any evidence of that nature, the employer employee relationship is not proved.

The claimant during cross examination has admitted in clear terms that no letter of appointment was given to him and his service was terminated by a verbal order. He also admitted that SAIL, in order to fill up the vacancies, usually makes advertisement in local newspaper and also invites candidature through the employment exchange. He has also admitted that his claim as an employee of SAIL was rejected by the special secretary, Labour of Govt. of Haryana. On the basis of this evidence, the management has stated that the employer employee relationship is not proved. But on behalf of the workman it was argued that the litigation is being fought between two un equals. The management is in possession of all the relevant documents. But intentionally suppressed the documents, so that the claim of the workman will be defeated.

Admittedly the claimant was not issued the letter of appointment, employee ID or salary slip, which is ordinarily issued to an employee. In such a situation the workman is required to adduce other evidence suggesting employer employee relationship. **The Hon'ble SC in the case of Ram Singh vs. Union Territory, Chandigarh (2004)1SCC126**, held that:-

“in determining the relationship of employer and employee, no doubt control is one of the important tests, but is not to be taken as the sole test. In order to determine the said relationship, all other relevant facts and circumstances are to be considered including the terms and conditions of the contract.”

In the case of **Balwant Rai Saluja vs. Air India Ltd, AIR 2015 SC 375**, **The Hon'ble SC** again held that:-

“the relevant factors to be taken into consideration to establish employer employee relationship would include inter alia (i)who appoints the worker, (ii)who pays the salary/remuneration, (iii)who has the authority to dismiss (iv)who can take disciplinary action, (v)whether there is continuity of service (vi)extent of control and supervision.e if there is complete control and supervision.”

With regard to the facts of this case, no appointment letter was issued to the claimant. Hence the claimant had to lead other evidence to prove the employer employee relationship. He has not examined any witness to prove his relationship with the management. No documentary evidence has been placed on record to show that the claimant workman was getting his salary/ remuneration from the Management. The documents filed by him are nothing but some written representation to the head of the Management of SAIL at Faridabad, requesting release of fund for the food supplied by him to the labours, Truck Drivers and other employees. The other documents filed show that the employee's food subsidies were released in favour of the claimant for the food supplied and the same was not paid directly but through another person. The vouchers filed by the claimant only show the payment of the food value, value of Gas Cylinder ect to him. But these documents no way prove that the claimant was getting salary as claimed by him from the Management. These documents only prove that the claimant was getting the reimbursement of the food cost, supplied to the employees of the management and the management was releasing the food subsidies payable to the employees to the claimant supplying food to those employees. The oral and documentary evidence adduced by the claimant no way proves that the claimant was working under the supervision and control of the Management. The documents only prove that the claimant was the supplier of food from the canteen to the employees. There is absolutely no evidence to believe that the claimant was discharging his work under the supervision and control of the Management. Hence from the totality of the evidence adduced by the witnesses examined by both the parties, the only conclusion is that the claimant has not succeeded in proving his relationship with the Management as its employee. This issue is accordingly answered against the claimant workman.

ISSUE No. 2&3

While discussing the evidence with regard to issue No 1 it has already been held that the relationship of the Respondent and the claimant as employer and employee has not been proved. Since the Management is not the employer of the claimant, it cannot be held that the service of the claimant was illegally terminated by the Management. Hence Issue no. 2 is answered against the claimant. For the finding arrived in respect of Issue No 1 & 2, it is held that the claimant workman is not entitled to the relief sought for. Hence, ordered.

ORDER

The reference be and the same is answered against the claimant. He is held not entitled to the relief sought for. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer.

नई दिल्ली, 16 फरवरी, 2023

का.आ. 202.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स ओ.एन.जी.सी. लिमिटेड, मेहसाना (गुजरात) के प्रबंधन के संबद्ध नियोजकों और श्री जवाहरसिंह आर. जट, अहमदाबाद (गुजरात) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 13/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.02.2023 को प्राप्त हुआ था।

[सं. एल-30012/37/2018-आई.आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 202.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/2019) of the Central Government Industrial Tribunal cum Labour Court, Ahmedabad as shown in the Annexure, in the Industrial dispute between the employers in relation to M/s ONGC Limited, Mehsana, (Gujarat) and Shri Jawaharsing R. Jat, Ahmedabad (Gujarat) which was received along with soft copy of the award by the Central Government on 16.02.2023.

[No. L-30012/37/2018-IR (M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, AHMEDABAD

Present: Sunil Kumar Singh-I, Presiding Officer,
CGIT cum Labour Court,
Ahmedabad,
Dated : 18.01.2023

Reference: (CGITA) No- 13/2019

The General Manager,
M/s ONGC Limited, KDM Bhawan,
Palavasna, Mehsana (Gujarat)-384003.

.... First Party

V

Shri Jawaharsingh R. Jat,
C/o. R. C. Pathak, B-4, Sterling City,
Nr. Tulip School, Bopal,
Ahmedabad, Gujarat – 380058.
Adv. for the First Party employer : Shri K. V. Ghadia & Shri M. K. Patel
Adv. for the Second Party workman : None

... Second Party

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/37/2018-IR(M) dated 17.12.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of Shri Jawaharsingh R. Jat against the management of ONGC Ltd., Mehsana to reinstate him in the ‘security guard’ job with full back wages and continuity of services with all consequential benefits is fair, legal & justified? If yes, then what relief Shri Jawaharsingh R. Jat is entitled to and from which date? What other directions are necessary in this matter?”

1. Today, the matter was called out. First Party employer represented through Ld. Counsels Shri K. V. Gadhia and Shri M. K. Patel. None responded for Second Party / Workman. The reference dates back to 17.12.2018. The notice Ex. 2 was served on both the parties vide acknowledgements Ex. 3 and 4, wherein the second party was asked to submit the statement of claim on 05.11.2019. A period of over three years has elapsed, yet no statement of claim has been filed as directed by the Ministry. It appears that the Second Party workman is not interested to proceed further in the matter.

2. The referred dispute is accordingly disposed of in absence of statement of claim and evidence, with the observation that “the demand of Shri Jawaharsinh R. Jat against the management of ONGC Ltd., Mehsana to reinstate him in the ‘security guard’ job with full back wages and continuity of services with all consequential benefits is not fair, legal & justified. The concerned workman is not entitled for any relief.”

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 203.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एलएसजी स्काई शेफ (इंडिया) प्राइवेट लिमिटेड, देवनाहल्ली, बंगलुरु के प्रबंधन के संबद्ध नियोजकों और के एन श्रीनिवास, देवनाहल्ली, बंगलोर नार्थ के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलोर, पंचाट (एप्लीकेशन नं.-01/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.02.2023 को प्राप्त हुआ था।

[सं. जेड-16025/03/2023-आईआर (एम)- 2]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 203.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Application No. 01/2015) of the Central Government Industrial Tribunal cum Labour Court, Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation to LSG Sky Chef (India) Pvt. Ltd., Devanahalli, (Bengaluru) and Shri K N Srinivas, Devanahalli (Bangalore North) which was received along with soft copy of the award by the Central Government on 16.02.2023.

[No. Z-16025/03/2023-IR(M)-2]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BENGALURU

DATED : 17th JANUARY 2023

Present : Shri IRFAN QAMAR, Presiding Officer

Application No. 01/2015

I Party

The Management of LSG Sky Chef (India)
Pvt. Ltd., Kempgowda International

II Party

Sh. K N Srinivas,
C/o Mallikarjuna House,

Airport, Devanahalli,
BENGALURU – 560 300.

Prashanth Nagar, Near Indian
Petrol Bunk, Devanahalli,
BANGALORE NORTH

Appearance

Advocate for I Party : Mr. K R Anand

Advocate for II Party : Mr. Clifton D`Rozario

ORDER

1. The petition is filed under Sec 33(2)(b) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the Applicant Employer i.e., LSG Sky Chef (India) Private Limited seeking approval for dismissal from service of Sh. K N Srinivas.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Joint Memorandum of Settlement wherein they have agreed that they have signed voluntarily and satisfied with amount so received from the management and approached the tribunal to accept the settlement. Therefore, prayed to pass consent award in the interest of justice. In view of the settlement arrived by both the parties in CR No. 07/2012, the Application does not survive.

3. Perused the record, parties have filed Joint Memorandum of Settlement in the present matter voluntarily and prayed to pass order in terms of the settlement. The Settlement has been duly signed by both the parties. Since the C R No. 07/2012 which was pending before this Tribunal has been settled by way of the Joint Memorandum of Settlement dated 26.12.2022 by both the parties by Award dated 17.01.2023 passed by this Tribunal. Therefore, in view of the above settlement is allowed and the matter is disposed off in terms of the settlement filed by both the parties. Transmit.

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 204.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एलएसजी स्काई शेफ (इंडिया) प्राइवेट लिमिटेड, देवनाहल्ली, बंगलुरु के प्रबंधन के संबद्ध नियोजकों और एलएसजी स्काई शेफ्स स्टाफ एंड वर्कर्स, बेंगलोर के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलोर, के पंचाट (सी.आर. न.-07/2012) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.02.2023 को प्राप्त हुआ था।

[सं. एल-11012/12/2011-आई.आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 204.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (C.R. No. 07/2012) of the Central Government Industrial Tribunal cum Labour Court, Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation to LSG Sky Chef (India) Pvt. Ltd., Devanahalli, (Bangalore) and LSG Sky Chefs Staff and Workers Union, (Bangalore) which was received along with soft copy of the award by the Central Government on 16.02.2023.

[No. L-11012/12/2011-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

At BENGALURU

DATED : 17th JANUARY 2023

Present : Shri IRFAN QAMAR, Presiding Officer

C R No. 07/2012

I Party

The President,
LSG Sky Chefs Staff and Workers Union
(R), No. 141, 7th Cross, Shabari Nagar Road,
Ramakrishna Hegde Road, BANGALORE –
560 075.

II Party

The General Manager,
LSG Sky Chef (India) Pvt. Ltd.,
Bangalore International Airport,
Devanahalli,
BENGALURU – 560 300.

Appearances

I Party : **Kum. Maitreyi Krishnan**
Advocate
II Party : **Sh. K R Anand**
Advocate

1. The Government of India, Ministry of Labour vide order No. L-11012/12/2011-IR(M) dated 27.02.2012 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

“Whether the workman of the management of M/s. LSG Sky Chefs (India) Pvt. Ltd., Bangalore in fixing the shift timings as per the Annexure-1 contrary to the provisions of Factories Act, 1948 is legal and justified? Whether the same amounts to overlapping shifts and legal?”

What relief the application union is entitled to?”

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Joint Memorandum of Settlement wherein they have agreed that they have signed voluntarily and satisfied with amount so received from the management and approached the tribunal to accept the settlement. Therefore, prayed to pass consent award in the interest of justice.

3. Perused the record, parties have filed Joint Memorandum of Settlement dated 26.12.2022 in the present matter voluntarily and prayed to pass consent Award in terms of the settlement. The Settlement has been duly signed by both the parties. Therefore, in view of the above settlement is allowed and the consent award in terms of the settlement is passed accordingly. Transmit.

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 205.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एलएसजी स्काई शेफ (इंडिया) प्राइवेट लिमिटेड, देवनाहल्ली, बंगलुरु के प्रबंधन के संबद्ध नियोजकों और श्री जगदीश टी जे, जाला होबली, बंगलुरु के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलोर, के पंचाट (एप्लीकेशन नं.-02/2017) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.02.2023 को प्राप्त हुआ था।

[सं. जेड-16025/03/2023-आई.आर (एम)-3]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 205.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Application No. 02/2017) of the Central Government Industrial Tribunal cum Labour Court, Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation to LSG Sky Chef (India) Pvt. Ltd., Devanahalli, (Bengaluru) and Shri Jagadish T J, Jala

Hobli (Bangalore) which was received along with soft copy of the award by the Central Government on 16.02.2023.

[No. Z-16025/03/2023-IR(M)-3]

D. K. HIMANSHU, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT BENGALURU

DATED : 17th JANUARY 2023

Present : Shri IRFAN QAMAR, Presiding Officer (i/c)

Application No. 02/2017

I Party

The Management of LSG Sky Chef
(India) Pvt. Ltd., Kempegowda
International Airport, Devanahalli,
BENGALURU – 560300.

II Party

Sh. Jagadish T J,
Sokkappa Building, Shree Rama
Temple Front, Mailanahalli Village,
B K Halli Post, Jala Hobli,
BENGALURU – 562 149.

Appearance

Advocate for I Party : Mr. K R Anand
Advocate for II Party : Mr. Clifton D'Rozario

AWARD

The petition is filed under Sec 33(2)(b) of the Industrial Disputes (Amendment) Act, 2010 (for brevity 'the Act') by the Applicant Employer i.e., LSG Sky Chef (India) Private Limited seeking approval for dismissal from service of Sh. Jagadish T J.

2. After Registering the matter notices were issued to parties who appeared. During the pendency of Industrial Dispute parties filed Joint Memorandum of Settlement wherein they have agreed that they have signed voluntarily and satisfied with amount so received from the management and approached the tribunal to accept the settlement. Therefore, prayed to pass consent award in the interest of justice. In view of the settlement arrived by both the parties in CR No. 07/2012, the Application does not survive.

3. Perused the record, parties have filed Joint Memorandum of Settlement in the present matter voluntarily and prayed to pass order in terms of the settlement. The Settlement has been duly signed by both the parties. Since the C R No. 07/2012 which was pending before this Tribunal has been settled by way of the Joint Memorandum of Settlement dated 26.12.2022 by both the parties by Award dated 17.01.2023 passed by this Tribunal. Therefore, in view of the above settlement is allowed and the matter is disposed off in terms of the settlement filed by both the parties. Transmit.

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 206.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एलएसजी स्काई शेफ (इंडिया) प्राइवेट लिमिटेड, देवनाहल्ली, बंगलुरु के प्रबंधन के संबद्ध नियोजकों और श्री पी काशी, मृत्युपरान्त 1. श्रीमती के सेल्वी पत्नी स्वर्गीय श्री पी काशी 2. महालक्ष्मी सत्यनारायण, पुत्री श्री पी काशी 3. श्री के शिवकुमार पुत्र श्री पी काशी 4. श्री के प्रवीण कुमार पुत्र श्री पी काशी, विवेकनगर (बैंगलोर) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलोर,

के पंचाट (रिफरेन्स न.-24/2013) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.02.2023 को प्राप्त हुआ था।

[सं. जेड-16025/04/2023-आई.आर (एम)-7]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 206.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2013) of the Central Government Industrial Tribunal cum Labour Court, Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation to LSG Sky Chef (India) Pvt. Ltd., Devanahalli, (Bengaluru) and Shri P Kashi Since deceased LR's brought on record 1. Smt. K Selvi, W/o Late P Kashi, 2. Smt. Mahalakshmi Satyanarayana, D/o Late P Kashi, 3. Sri K Shiva Kumar S/o Late P Kashi, 4. Sri K Praveen Kumar S/o Late P Kashi, Viveknagar (Bangalore) which was received along with soft copy of the award by the Central Government on 16.02.2023.

[No. Z-16025/04/2023-IR(M)-7]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

DATED : 18th JANUARY, 2023

Present : Shri IRFAN QAMAR, Presiding Officer

I D No. 24/2013

I Party

II

Party

The
Management
of LSG Sky
Chef (India)
Pvt. Ltd.,
Kempegowda
International
Airport,
Devanahalli,
BENGALURU
– 560 300.

Sh. P Kashi
Since deceased
LRs brought on record

1. Smt. K Selvi,
W/o Late P Kashi,

2. Smt. Mahalakshmi
Satyanarayana,
D/o Late P Kashi,

3. Sri K Shiva Kumar,
S/o Late P Kashi,

4. Sri K Praveen Kumar,
S/o late P Kashi,
All Residing at No. 34/1,
Vannarpet, Viveknagar,
BANGALORE – 560 047.

Appearance:-

Advocate for I Party : Mr. M Subramanya
Advocate for II Party : Mr. K R Anand

AWARD

1. Called out. Joint Memorandum of Settlement by claimant as well as Respondent. Perused Record. This is an Application under Sec 2-A(2) of the Industrial Disputes (Amendment) Act, 2010 was filed by Sir P Kashi, S/o Muniswamaiah, against the Respondent being aggrieved by the dismissal order dated 16.07.2012. During the pendency of the matter claimant P Kashi died on 09.07.2014 and his LR's are brought on record. Thereafter, a Joint Memorandum of Settlement has been filed on behalf of the claimant and Respondent. With this terms of settlement both parties have agreed to decide the matter.

2. Therefore, in view of the Memorandum of Settlement which has been signed by both the parties voluntarily on 18.01.2023, the present matter is decided in terms of Settlement arrived by both the parties. The matter is decided accordingly. This is my Award. Transmit.

IRFAN QAMAR, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 207.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 110/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/122/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 110/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023.

[No. L-23012/122/2018– IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH.**

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No. 110/2018

Registered on:-21.01.2019

Shri. Sant Ram S/o Shri Dialu Ram R/o Village-Dadour,
PO-Bhangrotu, Tehsil and Distt. Mandi (HP) – 175001

...Workman

Versus

1. The Chairman, Bhakra Beas Management Board,

Madhya Marg, Sector 19-B, Chandigarh-160019.

2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038. Respondents/Managements

Appearance

For the Workman : None
For the Management: Sh. Ravinder Rana, Law Officer for Management

AWARD

Passed On:-21.12.2022

Central Government vide Notification No.L-23012/122/2018-IR(CM-II) dated 16.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demand of Shri Sant Ram S/o Shri Dialu Ram for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.110/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 208.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 113/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/155/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.113/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/155/2018- IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH.**Present:** Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No. 113/2018

Registered on:-21.01.2019

Smt. Parsu Devi & Others Wd/o Late Shesh Ram,
Villager & PO Sewa Thana, Tehsil Chachyot,
Distt – Mandi (HP)- 175001

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038. ... Respondents/Managements

Appearance:-

For the Workman : None

For the Management : Sh. Ravinder Rana, Law Officer for Management

AWARD**Passed On:-21.12.2022**

Central Government vide Notification No.L-23012/155/2018-IR(CM-II) dated 16.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demands of Smt. Parsu Devi & Others, LH/LR of late Shesh Ram for declaring his retrenchment /termination as illegal and considering him in continuous service upto age of superannuation resulting in entitlement of consequential benefits is legal, just and valid? If not, to what relief the legal heirs/legal representatives of late workman are entitled to and from which date?

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.118/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 209.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण -सह- श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 114/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/29/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 209.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 114/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/29/2018-IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No.114/2018

Registered on:-21.01.2019

Sh. Masat Ram S/o Sh. Sunka Ram R/o Village –
Karanguhi (Kurunghi), P.O. Pandtehra, Teh. Ghumarwin,
Distt. Bilaspur, Himachal Pradesh - 174001

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038 ... Respondents/Managements

Appearance:-

For the Workman	None
For the Management	Sh. Ravinder Rana, Law Officer for Management

AWARD

Passed On:-21.12.2022

Central Government vide Notification No.L-23012/29/2018-IR(CM-II) dated 19.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demands of Shri Masat Ram S/o Shri Sunka Ram for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.114/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 210.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 115/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/107/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.115/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/107/2018- IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No.115/2018

Registered on:-21.01.2019

Sh. Piara Ram S/o Shri Meghu, Village Bakhli PO Sarwah,
Tehsil Chachyot at Bassa, Distt. Mandi, Himachal Pradesh – 175028 Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
 Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board,
 BSL Project, Sundernagar-175038. ... Respondents/Managements

Appearance

For the Workman: None
For the Management : Sh. Ravinder Rana, Law Officer for Management

AWARD

Passed On:-21.12.2022

Central Government vide Notification No.L-23012/107/2018-IR(CM-II) dated 19.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demands of Shri Piara Ram S/o Shri Meghu for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.115/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी, बी एस एल पी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 28/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/5/2019-आई.आर (सी.एम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 211.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.28/2019) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB,BSLP and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/5/2019-IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH.****Present:** Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No.28/2019

Registered on:-11.06.2019

Sh. Bodh Ram S/o Shri Gian Chand, Qtr. No.950 5/2,

BBMB Colony, Sunder Nagar, Distt. Mandi(HP)-175001

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160001.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175018. ... Respondents/Managements

Appearance:-

For the Workman : None

For the Management: Sh. Ravinder Rana, Law Officer for Management

AWARD**Passed On:-20.01.2023**

Central Government vide Notification No.L-23012/5/2019-IR(CM-II) dated 22.05.2019, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the alleged termination of the service of Shri Bodhy Ram S/o Shri Gian Chand w.e.f. 10-12-2012 by the management of BBMB in violation of

Sections 25F, 25G and 25H of the ID Act 1947 is just, fair and legal? If yes, what relief(s) the concerned workman is entitled to and from which date?"

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

"The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957".

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the instant reference ID No.28/2019.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 212.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी, बी एस एल पी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 29/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/07/2019-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 212.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2019) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB,BSLP and their workmen, received by the Central Government on 14/01/2023.

[No. L-23012/07/2019- IR (CM-II)]

RAJENDER SINGH, Under Secy.

**ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No.29/2019
Registered on:-11.06.2019

Sh. Gorkhi S/o Sh. Singh Ram, Vill-Rohani, P.O-Upper Behli,
Tehsil-Sunder Nagar, Distt. Mandi(HP)-175001

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160001.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175018. ... Respondents/Managements

Appearance:-

For the Workman:	None
For the Management:	Sh. Ravinder Rana, Law Officer for Management

AWARD

Passed On:-20.01.2023

Central Government vide Notification No.L-23012/07/2019-IR(CM-II) dated 22.05.2019, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the alleged termination of the service of Shri Gorkhi S/o Shri Singh Ram w.e.f 10-12-2012 by the management of BBMB in violation of Sections 25F, 25G and 25H of the ID Act 1947 is just, fair and legal? If yes, what relief(s) the concerned workman is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.29/2019.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 213.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी, बी एस एल पी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 37/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/25/2019-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 213.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.37/2019) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB,BSLP and their workmen, received by the Central Government on 05/01/2023.

[No. L-23012/25/2019— IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No. 37/2019

Registered on:-18.06.2019

Sh. Jhankhu Ram S/o Shri Tulsi Ram, R/o Village-Batehra,
Po-Brikhmani, Tehsil Balh, Distt. Mandi (HP) – 176121

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160001.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175018. ... Respondents/Managements

Appearance :-

For the Workman	None
For the Management	None

AWARD

Passed On:- 16.12.2022

Central Government vide Notification No.L-23012/25/2019-IR(CM-II) dated 28.05.2019, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demand of Sh. Jhankhu Ram S/o Shri Tulsi Ram for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.37/2019.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 214.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी, बी एस एल पी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 33/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/20/2019-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 214.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.33/2019) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB, BSLP and their workmen, received by the Central Government on 05/01/2023

[No. L-23012/20/2019- IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No. 33/2019

Registered on:-18.06.2019

Sh. Puran Chand S/o Shri Beli Ram Vill. Koouhra
Post Office Sainthal Tehsil Jogindernagar,
Distt Mandi (HP) – 176120

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160001.

2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175018. ... Respondents/Managements

Appearance:-

For the Workman	None
For the Management	None

AWARD

Passed On:- 16.12.2022

Central Government vide Notification No.L-23012/20/2019-IR(CM-II) dated 28.05.2019, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demand of Sh. Puran Chand S/o Shri Beli Ram for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.33/2019.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 215.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी, बी एस एल पी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 32/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/01/2023 को प्राप्त हुआ था।

[सं. एल-23012/21/2019-आई.आर (सी. एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 215.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.32/2019) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB, BSLP and their workmen, received by the Central Government on 05/01/2023

[No. L-23012/21/2019- IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No.32/2019

Registered on:-18.06.2019

Sh. Longoo S/o Shri Cheetal Vill. Po Dhaban The. Balh,
Distt. Mandi (HP) – 175001

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160001.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175018. ... Respondents/Managements

Appearance:-

For the Workman	None
For the Management	None

AWARD

Passed On:- 16.12.2022

Central Government vide Notification No.L-23012/21/2019-IR(CM-II) dated 28.05.2019, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demand of Longoo S/o Shri Cheetal for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.32/2019.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 216.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 101/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/71/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 216.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.101/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/71/2018– IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No. 101/2018

Registered on:-21.01.2019

Sh. Ganpat Ram S/o Shri. Chandu Ram Ward No.2, Rajgarh,
 Po & Tehsil Rajgarh, Distt. Sirmour (HP) – 173101

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
 Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board,
 BSL Project, Sundernagar-175038. ... Respondents/Managements

Appearance:-

For the Workman: None
 For the Management: Sh. Ravinder Rana, Law Officer for Management

AWARD

Passed On:-21.12.2022

Central Government vide Notification No.L-23012/71/2018-IR(CM-II) dated 16.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB is not accepting the demand of Sh. Ganpat Ram S/o Sh. Chandu Ram, for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.101/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 217.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 102/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/91/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह अवर सचिव

New Delhi, the 16th February, 2023

S.O. 217.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.102/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/91/2018– IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No. 102/2018

Registered on:-21.01.2019

Sh. Tilak Raj S/o Sh. Khajan Ram, R/o Village Tatahar
PO Nabahi Tehsil Sarkaghat Distt Mandi (HP)-175001 ... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038. ... Respondents/Managements

Appearance:-

For the Workman	None
For the Management	Sh. Ravinder Rana, Law Officer for Management

AWARD

Passed On:-21.12.2022

Central Government vide Notification No.L-23012/91/2018-IR(CM-II) dated 16.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB is not accepting the demand of Sh. Tilak Raj S/o Shri Khajan Ram, for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal,

just and valid? If not, to what relief the workman concerned is entitled to and from which date?

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.102/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 218.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 103/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/99/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 218.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 103/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/99/2018-IR (CM-II)]

RAJENDER SINGH, Under Secy.

**ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No.103/2018

Registered on:-21.01.2019

Sh. Nikka Ram S/o Shri Sadh Ram, Villager Sai Phardeyan PO
Raghunathpura Tehsil Sadar & Distt. Bilaspur (HP) – 177023

....Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038. ... Respondents/Managements

Appearance :-

For the Workman	None
For the Management	Sh. Ravinder Rana, Law Officer for Management

AWARD**Passed On:-21.12.2022**

Central Government vide Notification No.L-23012/99/2018-IR(CM-II) dated 16.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB is not accepting the demand of Sh. Nikka Ram S/o Shri Sadh Ram, for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.103/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 219.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 105/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/105/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/2018) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/105/2018– IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH****Present:** Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No. 105/2018

Registered on:-21.01.2019

Sh. Sadhu Ram S/o Shri Karam Singh, R/o Village Katonu,
Post Office Ganihiar, Tehsil Chachyot, Distt-Mandi (HP) – 175001 ... Workman

Versus

1. The Chairman, Bhakra Beas Management Board, Madhya Marg,
Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038. ... Respondents/Managements

Appearance:-

For the Workman	None
For the Management	Sh. Ravinder Rana, Law Officer for Management

AWARD**Passed On:-21.12.2022**

Central Government vide Notification No.L-23012/105/2018-IR(CM-II) dated 16.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB is not accepting the demand of Sh. Sadhu Ram S/o Shri. Karam Singh, for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the instant reference ID No.105/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 220.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 106/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/111/2018-आई.आर. (सी.एम-II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.106/2018) of the Central Government Industrial Tribunal-cum-Labour Court No 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023.

[No. L-23012/111/2018- IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No. 106/2018

Registered on:-21.01.2019

Smt. Ajudhya Devi & Others Village Gori, P.O. Ranikotla,
Tehsil Sadar, Distt. Bilaspur (H.P.) – 177023

...Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160019.

2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175038.

... Respondents/Managements

Appearance:-

For the Workman :

None

For the Management:

Sh. Ravinder Rana, Law Officer for Management

AWARD

Passed On:-21.12.2022

Central Government vide Notification No.L-23012/111/2018-IR(CM-II) dated 16.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB is not accepting the demand of Smt. Ajudhya & others, LH/LR of late Birbal Ram for declaring his retrenchment/termination as illegal and considering him in continuous service upto age of superannuation resulting in entitlement of consequential benefits is legal, just and valid? If not, to what relief the legal heirs/legal representatives of late workman are entitled to and from which date?

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.106/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 221.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 108/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/117/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 221.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 108/2018) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/117/2018- IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE
IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Present: Sh. JYOTI KUMAR TRIPATHI, Presiding Officer

ID No.108/2018

Registered on:-21.01.2019

Smt. Kala Devi & Others Vill. Bechhana,
 PO Chatrokhari Tehsil Sunder Nagar Distt. Mandi (HP) – 175001

... Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
 Madhya Marg, Sector 19-B, Chandigarh-160019.

2. The Chief Engineer, Bhakra Beas Management Board,
 BSL Project, Sundernagar-175038.

... Respondents/Managements

Appearance:-

For the Workman

None

For the Management

Sh. Ravinder Rana, Law Officer for Management

AWARD

Passed On:-21.12.2022

Central Government vide Notification No.L-23012/117/2018-IR(CM-II) dated 16.11.2018, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB is not accepting the demands of Smt. Kala Devi & Others, LH/LR of late Lekh Ram for declaring his retrenchment /termination as illegal and considering him in continuous service upto age of superannuation resulting in entitlement of consequential benefits is legal, just and valid? If not, to what relief the legal heirs/legal representatives of late workman are entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.108/2018.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

JYOTI KUMAR TRIPATHI, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 222.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सचिव, गैर सांविधिक कैंटीन, कार्मिक विभाग, सरकार ऑफ इंडिया, नॉर्थ ब्लॉक, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री वीरेंद्र सिंह, कामगार, द्वारा अखिल भारतीय केन्द्रीय सरकार कैंटीन कर्मचारी एसोसिएशन, लाडो सराय, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ सं. 70/2014) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.02.2023 को प्राप्त हुआ था।

[सं. एल-42011/66/2014-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 222.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 70/2014) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Secretary, Non Statutory Canteen, Dept. of Personal, Govt. of India, North Block, New Delh, and Shri Shri Virender Singh, Worker, Through All India Central Govt. Canteen Employees Association, Lado Sarai, New Delhi, which was received along with soft copy of the award by the Central Government on 16.02.2023.

[No. L-42011/66/2014 –IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. PRANITA MOHANTY, Presiding Officer,
C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 70/2014

Date of Passing Award- 23rd January, 2023.

Between:

Shri Virender Singh,
Through All India Central Govt. Canteen Employees
Association,
F-48, Lado Sarai,
New Delhi-110030.

... Workman

Versus

The Secretary,
Non Statutory Canteen, Dept. of Personal,
Govt. of India, North Block,
New Delhi 110001.

... Management

Appearances:-

Shri G K Mall,
(Advocate)

For the Workman

Shri Atul Bhardwaj
(Advocate)

For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Non Statutory Canteen, Dept. of Personal, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 42011/66/2014 (IR(DU) dated 17/07/2014 to this tribunal for adjudication to the following effect.

“Whether refusal to grant ACP in the scale of 4000-6000 to Shri Virender Singh, the workman by the management of Non statutory Canteen, Ministry of Defence under Joint Secretary Training and CAO in the tune of Memo No. 03/04/2005-Dir. (C) dated 25.07.2012 is just fair and legal? If not what relief the workman concerned are entitled to?”

1. As per the claim statement the claimant workman was appointed as a bearer on 13.06.2008 in the Non Statutory Canteen under the management of the Joint Secretary Training and CAO New Delhi. As per a decision taken by the Government of India all posts in the Non Statutory Canteen and Tiffin Rooms run departmentally were treated as posts in connection with the affairs of the union and incumbent of such posts were declared as holders of Civil Posts under the Central Government. A notification to that effect was issued by the government on 11.12.1979. The said order was given effect from 01.10.1979. In the said order it was laid down that the condition of service of the incumbents of these posts will be framed under the proviso to article 309 of the constitution of India and shall be applicable retrospectively from 01.10.1979. Thereafter in exercise of the power as directed in the memorandum the Government framed the Rule to regulate the method of recruitment and condition of service of persons appointed to such civil posts. According to that rule specific provision were made in respect of the period of probation for the persons appointed between the period commencing from 1st day of October 1979 and ending with the date of publication of the Rule in the official gazette. According to this rule a member of the service who complete the period of probation shall be deemed to have been appointed on regular basis w.e.f the date he completes the probation. If any person has not completed 6 months on the date of publication of the rule his period of probation will be extended upto the date he completes 6 months service and the period of probation can be extended for another period of 6 months in case the period of probation is not found satisfactory. The claimant workman had successfully completed the period of probation as per the Recruitment Rule i.e GSR 54 and accordingly he was treated as a permanent employee and granted the pay scale of Rs. 160-275. The general secretary of the union as the representative of the claimant and persons in the same footing had filed a writ petition bearing No. WPC 6189-7044 of 1983 and 8426-8455 of 1983 before the Hon'ble Supreme Court asking for a similar benefit as granted to the Non Statutory Canteen employees. It was prayed that the benefit be granted w.e.f 22.10.1980. The Hon'ble Supreme Court passed an interim order in this regard. Pursuant thereto the DOPT issued an office memorandum dated 03.11.1983 deciding that in compliance to the interim direction of the Hon'ble Supreme Court, the pay of the employees in Non Statutory Canteen may be fixed in the revised scale w.e.f 26.09.1983 as indicated in column –III of the annexure to the said office memorandum. The manner in which the pay scale is to be revised was also indicated in the said office memorandum. The Hon'ble Supreme Court in the above said writ petition passed the final order on 11.10.1991 wherein it was directed that the benefits granted in the interim order dated 26.09.1983 shall deemed to be operative from that date. Any further benefit is admissible, those will be admissible from 01.10.1991. Pursuant thereto the Government of India Ministry of Personal and public grievance issued another office memorandum dated 29th January 1992, declaring all employees of Non Statutory Canteen, departmental Cooperative Canteen registered with the Director of the canteen a central government employee w.e.f 01.10.1991. The pay commission, in the year 1996, also recommended that from 01.10.1991 all the benefits available to the other central government employee or comparable status should be extended to the employees of Non Statutory Canteen. It was also recommended by the pay commission that the posts of cook and assistant Halwai be upgraded to the pay scale of Rs. 950 to 1500/- as these are skilled posts and demand for the corresponding pay scale is justified.

2. The Ministry of Finance, department of expenditure, constituted a committee named Staff Inspection Unit to resolve the issue and the committee recommended the pay scale for all the posts in the Non Statutory Canteen in its report submitted in May 2003. This report was reviewed by the Ministry of Finance and final orders were issued on 22.12.2004 in which designation of the posts were restructured. But the recommendation of the staff inspection unit with regard to the pay scale of Bearer Assistant Halwai cum cook was not considered nor any association was communicated about the adverse effects of the benefits which stands contrary to the observation of the Hon'ble Supreme Court in the case of **MMR Khan vs. Union of India**. Though the post of Assistant Halwai and cook as well as Halwai is skilled work and their duties and responsibility is the same as that of the clerk in the non statutory canteen the same was not considered at all. While the matter stood thus, the

clerks appointed in different non statutory canteens had challenged the pay scale of 3200-4900 granted to them before the Principle Bench CAT Delhi through their Association. The Hon'ble CAT, in OA No. 714 of 2005 passed an order directing that the canteen clerks have to be granted the benefit of ACP in the pay scale of Rs. 4000-6000 and this aspect be considered by the government. Pursuant to the said order of the Hon'ble CAT the government of India (DOPT) issued an order dated 19th April 2006 in which the pay scale of Rs 4000-6000 is allowed to the clerks working in the non statutory canteen during grant of ACP. The similar scale was granted to the cooks and Head cooks of the non statutory canteens run by the department of space, DRDO, etc. thus, the association of the claimant served a demand notice for grant of the pay scale of Rs. 4000-6000 to the claimant and the persons of same rank w.e.f 09/08/1999. But the same was not considered by the management nor it was forwarded to DOPT for consideration. It has also been stated that the similar dispute was raised before the industrial Tribunal in ID NO.7/2009 in which the claimant Rajender Sharma was bearer in the non statutory canteen under DRDO. The Industrial Tribunal by the Award allowed the pay scale of Rs. 4000-6000 in grant of ACP to the bearers of that canteen. The claimant through its union raised a dispute before the conciliation officer. During conciliation the management raised dispute that the claimant since has been treated as civilian Central Government Employees, cannot invoke the provisions of ID Act. But the Hon'ble Supreme Court in WPC No. 248 of 1985 have clearly held that Id Act is applicable to all the canteen employees. The conciliation since failed the appropriate government referred the matter to this tribunal for adjudication. The claimant has pleaded that the action of the management in not granting him ACP in the scale of 4000-6000 is illegal and a direction be issued in this regard.

3. The management filed written statement challenging the maintainability of the present proceeding before this tribunal. In addition to that it has been pleaded that the canteen workers are now holders of Civil Post and as per Rule 7 of the Central Civil Service Classification control and Appeal Rules they are included in the General Central Service of the corresponding Group. As per the decision taken by the Central Government all posts in the non statutory canteen and Tiffin Rooms run departmentally by the Government of India were treated as posts in connection with the affairs of the union and incumbent of such posts declared as holder of Civil posts. Accordingly a set of Rules called the Departmental Canteen Employees Recruitment and Condition of Service Rules 1980 was notified. Some section of the canteen employees filed a writ petition before the Hon'ble Supreme Court (**C K Jha and others vs. Union of India**) praying to treat them equally and at par with the general central government employees. The Hon'ble Supreme Court passed an interim order dated 26.09.1983 directing the Central Government to pay all employees of the non statutory canteen at the same rate and same basis on which statutory canteen employees being paid. In the said writ application final order was passed on 11.10.1991 in which the Hon'ble Supreme Court came to hold that the Principle decided in the case of M MR Khan and others vs. UOI squarely applies. While allowing the writ petition the court observed that certain reliefs granted by the interim order dated 26.09.1983 shall deemed to be operative from that date of order. In case any further benefits are admissible, those will be effective from 01.10.1991. For the purpose of calculation of pension, service from the date of interlocutory order shall be counted. Based on the said order of the Hon'ble Supreme Court the DOPT in consultation with the Ministry of Law and Ministry of Finance issued O M No. 12-5-1991 as per which the employees of the canteens are to be extended all benefits as are available to other Central Government Employees of comparable status except GPF Pension and Group insurance in respect of which separate instruction would be issued. Accordingly separate instructions were issued. The service of departmental canteen employees are governed by separate rules framed under constitutional provision. It is a decentralized Cadre as each Ministry frames its own Recruitment Rules.

4. The claimant Virender Singh was appointed as bearer w.e.f 09.02.1976 in the pre revised scale of 2610-3540 as recommended by 5th CPC in the departmental canteen. As per his service record, his educational qualification has been noted as Class-III pass which means he had not passed the required educational qualification. The claimant had made a demand for grant of ACP in the scale of 4000-6000 as has been granted to one Virender Singh by Ministry of Defence in the tune of DOPT Memo No. 03-04-2005. But Virender Singh the claimant, stands in a different footing as he was appointed as a bearer on 09.02.1976 in the pay scale of 2610-3540 in the pre revise scale. He was promoted as Assistant Halwai cum Cook carrying the same scale on 09.01.2007 and second financial upgradation in the scale of 3200-400 w.e.f 26.09.2007 was allowed to him on completion of 24year of service w.e.f 26.09.1983 under the 6th CPC. For the purpose of determining the eligibility for consideration of financial upgradation of the canteen employee under ACP Scheme, the service rendered by a canteen employee is reckonable from 26.09.1983 or on the actual appointment in regular pay scale whichever is later. He has been granted 3rd financial upgradation under MACP Scheme Pay Band-I, GP 2400 w.e.f 26.09.2013. Hence, he is not entitled to the financial upgradation of ACP as claimed by him. It has also been stated that on the basis of the recommendation of 5th CPC, ACP Scheme was introduced for Central Government Employees vide OM No. 35034/1/1997 dated 09.08.1999. As per this scheme the employee would be eligible for 2 financial upgradation on completion of 12 years and 24 years of regular service respectively and the said financial upgradation under ACP was available only if no regular promotion during the prescribed period of 12 and 24 years have been availed. In this case for the promotions allowed the claimant was not entitled to ACP. But he was granted 3rd financial upgradation under MACP w.e.f 26.09.2013. Though, the ACP

scheme which became operational from 09.08.1999 was applicable to the non statutory canteen employees the claimant is not entitled to the same. For the purpose of determining the eligibility for consideration of the financial upgradation under the ACP Scheme the service rendered by the canteen employees is reckonable from 26.09.1983 i.e from the date of interim order passed by the Hon'ble Supreme Court or actual appointment in regular service whichever is later. The claimant is thus, not entitled to the ACP as claimed by him. The government on considering the recommendation of 5th CPC decided to grant revised scale of pay to the common category of non statutory canteen employees in different offices. As per the said revision a bearer was to get the revised pay scale of 2610-60-3150-65-3540. It is correct that as per the recommendations of 5th CPC. The ACP notified on 09.08.1999 was extended to the employees of non-statutory canteens located in Central Government Offices. As per the scheme employees would be illegible for minimum of two financial of upgradation in the entire service career on completion of 12 and 24 years of regular services. As per this scheme conditions no. 6, in annexure 1 to OM No. 35034/1/97 dated 09.08.1999 all promotion norms have to be fulfilled for up gradation under the scheme. Following the Supreme Court order the hierarchy and scale of canteens employees was modified taking into consideration the implementation of SIU(Staff Inspection Unit) and DOPT issued OM no. 03/10/2001 dated 22.12.2004.

5. The ACP scheme for employees of non-statutory canteens was further revised vide DOPT letter no. 314/2005 dated 14.01.2008. To obviate certain anomalies, the scale to be given on grants of first ACP was annexed to the said letter. Owing to implementation of the said ACP order dated 14.01.2008, again certain anomalies cropped in while the pay was fixed. Thus, the same was again brought to the notice of DOPT. Thereafter the ACP scheme was partially reviewed and modified in respect of the ACP to be granted to the bearers/and the coffer/Tea makers in the pay scale of Rs. 2610/3540 indicating that the persons who are matriculate and eligible for the promotion post for clerk in the pay scale 3050-4590 and second promotion to the post of Assistant Manager-cum-store keeper shall be granted ACP in the pay scale of 4000-6000 as per the recruitment rules. The non-matriculate bearers were illegible for first promotion to the post of Assistant halwai cum- cook in the scale of 3050-4590 and second promotion to the post of halwai-cum-cook in the pay scale of 3200-4900. Accordingly, OM no. 3/4/2005 dated 25.07.2012 was issued. Since the claimants' education as per his service record was recorded as class-III pass, he was considered in the non-matriculate category. It was also noticed that the claimant had already been granted two financial upgradation on his 12th year and before 24 years of service. Thus the first and second ACP were justifiably granted. He was granted third upgradation under MACP. Hence, his claim is not maintainable.

6. The claimant filed replication denying the stand of the management.

On these rival pleadings the following issues were framed.

ISSUES

1. Whether refusal to grant ACP in the scale of 4000-6000 to the workman by the management of non-statutory canteen is just fared and legal? If so its effect.
2. 2. If not, what relief the claimant is entitled to and from which dated.

The claimant examined himself as WW1 and filed a series of documents which are all Governments notification and orders related to grant of ACP issued from time to time. Similarly, on behalf of the management one Kulbhusan Malhotra, Under Secretary DOPT testified as MW1. He also exhibited a series of documents marked as MW1/1 to MW1/36.

7. At the outset of the arguments the Ld. A/R for the management challenged the jurisdiction of this tribunal to the adjudicated upon the issue.

It was argued that the claimant having been declared as holder of Civil posts under the Central Government with effect from first day of October 1979, as per the Governments notification dated 11th Dec 1979 and the recruitment rules has been separately framed, every person appointed or deemed to have been appointed under the said rule, is a central government employees and as such the provisions of ID Act, are not applicable in as much as the office of the respondent is not an industry under the Industrial Dispute Act. Moreover, as per rules 7 of Central Civil Services classification control and appeal rules are deemed to be included in the General Central Services of corresponding group. As such the dispute relating to them are either to be dealt by the Central Administrative Tribunal or under the writ jurisdiction of the Hon'ble High court. He thereby prayed for dismissal of the claim petition for want of jurisdiction. It was also pointed out that the issue came of before the Hon'ble Supreme Court in Civil appeal no. 6462 and 6464 of 2003 against the order passed by the Hon'ble High Court of Bombay, in the case of Umesh Korga bhandari vs. Mahanagar Telephone Nigam. The Hon'ble Supreme Court after a detail consideration referred the matter to a higher bench which is still pending. Hence, the order passed by the hon'ble Division Bench of Bombay in the case of Mahanagar Telecom Nigam referred supra holding that the dispute of canteen employees is not maintainable under section 1091) of the Id Act is not maintainable, holds good in the file. The reply arguments of the Ld. A/R for the claimant is that the proceedings

is maintainable and similar orders have earlier been passed by this Tribunal. This aspect shall be dealt while dealing with the issue relating to ACP.

FINDINGS

8. The admitted facts are that the workman was appointed as a bearer on 09.02.1976 and retired from service in the year 2015. Pursuant to the order passed by the Hon'ble Supreme Court the DOPT issued an order dated 03.11.1983 granting all the benefits granted to the employees of statutory canteens. The Hon'ble Supreme Court passed the final order on 11.10.1991 and pursuant thereto a decision was taken by the Government of India and all posts in the non-statutory canteens and Tiffin room run departmentally by the Government of India were treated as posts in connection the affairs of the Union and the incumbents of such posts were treated as holders of the civil posts with effect from 1.10.1979 pursuant to the notification rules were framed under the proviso to article 309 of the Constitution of India governing the service condition of the canteen employees. The canteen employees since filed writ petition before the Hon'ble Supreme Court in the case titled C.K. Jha and others vs. Union of India, an order was passed directing the central government to pay all employees of non statutory canteens at the same rate and at the same basis on which employees of statutory canteen are paid. The claimant as per the claim statement was appointed as a bearer on 20.10.1972. The Government declared all the employees of non statutory canteens as holders of civil posts under the Central Government. By notification dated 23.12.1980, GSR 54 as per which the claimant and others were declared as holder of civil posts under the central government with effect from first day of October 1979. Under the service rule, framed every person recruited to the services after 1st October 1979 has to complete a six month period of probation. A member of the service who complete his period of probation satisfactorily shall be deemed to have been appointed on regular basis with effect from the date he completes his period of probation. The claimant since completed the period of probation as per the recruitment rules he was granted the pay scale of Rs. 160-275. The general secretary, as the representative of the workman had filed writ petition before the Supreme Court for grant of similar benefits as extended to the employees of statutory canteens. The Supreme Court passed an interim order and on the basis of the said order the interim relief was granted by the Government by the order of DOPT dated. 03.11.1983. It is also admitted that the Hon'ble Supreme Court in the said writ petition passed the final order dated 11.10.1991 and pursuant thereto the interim relief granted was deemed to be extended from 03.11.1983 and any additional benefit to be granted shall be admissible with effect from 01.10.1991. The pay commission in the year 1996 recommended that the employees of statutory and non statutory canteens as per the order of the Hon'ble Supreme Court be treated at par and similar benefits shall be admissible to them since they have already been declared as civil employees. The claimant was appointed as bearer with effect from 20.10.1972 in the pre revised scale of 2610-3540. As per 5th CPC the ACP scheme became operational from 09.08.1999 and as per the said scheme the ACP was made applicable to the non-statutory canteens employees too. Before that in order to draw parity in the cadre of statutory and not statutory and canteens employees the Govt. had constituted a staff inspection unit which had recommended re-structuring of the post and the admissible pay scale.

9. The claimant in his oral testimony has stated that the ACP was admissible as a mode of financial upgradation to the employees who could not get promotion within 12 years or 24 years of regular service as the first and second ACP. Though the scheme was extended to the non statutory canteen employees and the claimant was entitled to first ACP in the pay scale of 3050-4500 and later on when promoted as cook which was re-designated as Assistant Halwai cum cook as per the recommendation of 5th pay commission he should have been allowed second ACP in the pay scale of 4000-6000 and third MACP in the pay scale of 5000-8000. The Management without application of mind refused to grant him second ACP in the scale of 4000-6000 which substantially affected his pay and pension. It has also been stated that the post of cook and clerk in the non statutory Canteen have been treated as skilled post and the clerk obtained an order from the principal Bench CAT New Delhi for grant of second ACP in the scale of 4000-6000. Thereby the claimant has prayed that a direction be issued to the management for grant of second ACP to him from the date it is admissible in the scale of 4000-6000.

10. The witness examined on behalf of the management while relying upon a series of documents submitted that the claimant has given misleading picture of the ACP allowed to the clerk of not statutory canteens. As per the direction of the Supreme Court the employees of the not statutory canteen were declared as central government employees with effect from 01.10.1991 and all the benefits of central government employees of comparable status were allowed. On the basis of recommendation of fifth CPC, ACP was introduced for central government employees by notification dated 09.08.1999. As per this scheme the employees would be eligible for two financial up gradation on completion of 12 years and 24 years of regular service respectively. The financial up gradation under ACP scheme was available only if no regular promotion during the prescribed period 12-24 years have been availed by the employee. In the case the claimant he got the first and second ACP in the scale 3050-4590 and 3200-4900 with grade pay of 2000. As such the question of non grant of ACP doesn't arise and he was rightly granted third financial up gradation under MACP with effect from 26.09.2013. Hence, he got all his dues and the claim is not maintainable.

11. The ACP scheme became operational from 09.08.1999 which is the date of issue of OM no. 35034/1/1997. This scheme was extended to the canteen employees by OM no. 3/4/1999 dated 25.07.2000. As per this notification for the purpose of determining the eligibility for financial up gradation of the canteen employees under the ACP scheme the service rendered by the canteen employees was reckonable from 26.09.1983 that is the date of interim order passed by the Hon'ble Supreme Court. As seen from the notification issued by the Ministry of Finance Department of Expenditure notification no. F.50(1/IC/97) dated 30th Sept 1997, it was decided to revised the pay scale to the common category department canteen employees and non statutory canteen in various offices of the government. As per the said notification the pay scale of the bearer was revised to 2615-3540. The claimant was granted first and second ACP on completion of 12 and 24 years. This has been admitted by the claimant that he got 2 ACPs on completion of 12 and 24 years. Moreover, the management has stated that the claimant was not entitled to ACP scale as a matriculate making him eligible for first promotion to the post of clerk and second promotion to the post of Assistant management cum store keeper. The MACP has been granted to him as a non matriculate bearer which is justified. Thus, on a careful analysis of the evidence and the documents relied upon by the claimant as well as management, it is held that the claimant is not entitled to ACP in the scale of 4000-6000 as claimed by him. The issue is accordingly answered accordingly. Be it stated that the case of the claimant in ID No. 07/2009, decided earlier by this tribunal granting ACP in the scale of 4000-6000 is distinguishable on facts, as the claimant of that proceeding was a matriculate and eligible for promotion to the post of clerk and then to the post of storekeeper.

12. In view of the decision arrived whiling deciding issue no. 1 it is held that the claimant is not entitled to the relief sought for. Hence ordered.

ORDER

The claim petition be and the same is dismissed on contest. It is held that the claimant is not entitled to the grant of ACP as claimed by him. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 223.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सचिव, गैर सांविधिक कैंटीन, कार्मिक विभाग, सरकार ऑफ इंडिया, नॉर्थ ब्लॉक, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री बंसी धर, कामगार, द्वारा अखिल भारतीय केन्द्रीय सरकार कैंटीन कर्मचारी एसोसिएशन, लाडो सराय, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ सं. 71/2014) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.02.2023 को प्राप्त हुआ था।

[सं. एल-42011/63/2014 -आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 223.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 71/2014) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Secretary, Non Statutory Canteen, Dept. of Personal, Govt. of India, North Block, New Delhi, and Shri Bansi Dhar, Worker, Through All India Central Govt. Canteen Employees Association, Lado Sarai, New Delhi, which was received along with soft copy of the award by the Central Government on 16.02.2023.

[No. L-42011/63/2014—IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. PRANITA MOHANTY, Presiding Officer,
C.G.I.T.-Cum-Labour

Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE No. 71/2014**Date of Passing Award- 23rd January, 2023.****Between:**

Shri Bansi Dhar,

Workman

Through All India Central Govt. Canteen Employees
Association,
F-48, Lado Sarai,
New Delhi-110030.

Versus

The Secretary,
Non Statutory Canteen, Dept. of Personal,
Govt. of India, North Block,
New Delhi 110001.

Management

Appearances:-

Shri G K Mall,
(Advocate)

For the Workman

Shri Atul Bhardwaj
(Advocate)

For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Non Statutory Canteen, Dept. of Personal, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 42011/63/2014 (IR(DU) dated 17/07/2014 to this tribunal for adjudication to the following effect.

“Whether refusal to grant ACP in the scale of 4000-6000 to Shri Bansi Dhar, the workman by the management of Non statutory Canteen, Ministry of Defence under Joint Secretary Training and CAO in the tune of Memo No. 03/04/2005-Dir. (C) dated 25.07.2012 is just fair and legal? If not what relief the workman concerned are entitled to?”

1. As per the claim statement the claimant workman was appointed as a bearer on 13.06.2008 in the Non Statutory Canteen under the management of the Joint Secretary Training and CAO New Delhi. As per a decision taken by the Government of India all posts in the Non Statutory Canteen and Tiffin Rooms run departmentally were treated as posts in connection with the affairs of the union and incumbent of such posts were declared as holders of Civil Posts under the Central Government. A notification to that effect was issued by the government on 11.12.1979. The said order was given effect from 01.10.1979. In the said order it was laid down that the condition of service of the incumbents of these posts will be framed under the proviso to article 309 of the constitution of India and shall be applicable retrospectively from 01.10.1979. Thereafter in exercise of the power as directed in the memorandum the Government framed the Rule to regulate the method of recruitment and condition of service of persons appointed to such civil posts. According to that rule specific provision were made in respect of the period of probation for the persons appointed between the period commencing from 1st day of October 1979 and ending with the date of publication of the Rule in the official gazette. According to this rule a member of the service who complete the period of probation shall be deemed to have been appointed on regular basis w.e.f the date he completes the probation. If any person has not completed 6 months on the date of publication of the rule his period of probation will be extended upto the date he completes 6 months service and the period of probation can be extended for another period of 6 months in case the period of probation is not found satisfactory. The claimant workman had successfully completed the period of probation as per the Recruitment Rule i.e GSR 54 and accordingly he was treated as a permanent employee and granted the pay scale of Rs. 160-275. The general secretary of the union as the representative of the claimant and persons in the same footing had filed a writ petition bearing No. WPC 6189-7044 of 1983 and 8426-8455 of 1983 before the Hon'ble Supreme Court asking for a similar benefit as granted to the Non Statutory Canteen employees. It was prayed that the benefit be granted w.e.f 22.10.1980. The Hon'ble Supreme Court passed an interim order in this regard. Pursuant thereto the DOPT issued an office memorandum dated 03.11.1983 deciding that in compliance to the interim direction of the Hon'ble Supreme Court, the pay of the employees in Non Statutory Canteen may be fixed in the revised scale w.e.f 26.09.1983 as indicated in column -III of the annexure to the said office memorandum. The manner in which the pay scale is to be revised was also indicated in the said office memorandum. The Hon'ble Supreme Court in the above said writ petition

passed the final order on 11.10.1991 wherein it was directed that the benefits granted in the interim order dated 26.09.1983 shall deemed to be operative from that date. Any further benefit is admissible, those will be admissible from 01.10.1991. Pursuant thereto the Government of India Ministry of Personal and public grievance issued another office memorandum dated 29th January 1992, declaring all employees of Non Statutory Canteen, departmental Cooperative Canteen registered with the Director of the canteen a central government employee w.e.f 01.10.1991. The pay commission, in the year 1996, also recommended that from 01.10.1991 all the benefits available to the other central government employee or comparable status should be extended to the employees of Non Statutory Canteen. It was also recommended by the pay commission that the posts of cook and assistant Halwai be upgraded to the pay scale of Rs. 950 to 1500/- as these are skilled posts and demand for the corresponding pay scale is justified.

2. The Ministry of Finance, department of expenditure, constituted a committee named Staff Inspection Unit to resolve the issue and the committee recommended the pay scale for all the posts in the Non Statutory Canteen in its report submitted in May 2003. This report was reviewed by the Ministry of Finance and final orders were issued on 22.12.2004 in which designation of the posts were restructured. But the recommendation of the staff inspection unit with regard to the pay scale of Bearer Assistant Halwai cum cook was not considered nor any association was communicated about the adverse effects of the benefits which stands contrary to the observation of the Hon'ble Supreme Court in the case of **MMR Khan vs. Union of India**. Though the post of Assistant Halwai and cook as well as Halwai is skilled work and their duties and responsibility is the same as that of the clerk in the non statutory canteen the same was not considered at all. While the matter stood thus, the clerks appointed in different non statutory canteens had challenged the pay scale of 3200-4900 granted to them before the Principle Bench CAT Delhi through their Association. The Hon'ble CAT, in OA No. 714 of 2005 passed an order directing that the canteen clerks have to be granted the benefit of ACP in the pay scale of Rs. 4000-6000 and this aspect be considered by the government. Pursuant to the said order of the Hon'ble CAT the government of India (DOPT) issued an order dated 19th April 2006 in which the pay scale of Rs 4000-6000 is allowed to the clerks working in the non statutory canteen during grant of ACP. The similar scale was granted to the cooks and Head cooks of the non statutory canteens run by the department of space, DRDO, etc. thus, the association of the claimant served a demand notice for grant of the pay scale of Rs. 4000-6000 to the claimant and the persons of same rank w.e.f 09/08/1999. But the same was not considered by the management nor it was forwarded to DOPT for consideration. It has also been stated that the similar dispute was raised before the industrial Tribunal in ID NO.7/2009 in which the claimant Rajender Sharma was bearer in the non statutory canteen under DRDO. The Industrial Tribunal by the Award allowed the pay scale of Rs. 4000-6000 in grant of ACP to the bearers of that canteen. The claimant through its union raised a dispute before the conciliation officer. During conciliation the management raised dispute that the claimant since has been treated as civilian Central Government Employees, cannot invoke the provisions of ID Act. But the Hon'ble Supreme Court in WPC No. 248 of 1985 have clearly held that Id Act is applicable to all the canteen employees. The conciliation since failed the appropriate government referred the matter to this tribunal for adjudication. The claimant has pleaded that the action of the management in not granting him ACP in the scale of 4000-6000 is illegal and a direction be issued in this regard.

3. The management filed written statement challenging the maintainability of the present proceeding before this tribunal. In addition to that it has been pleaded that the canteen workers are now holders of Civil Post and as per Rule 7 of the Central Civil Service Classification control and Appeal Rules they are included in the General Central Service of the corresponding Group. As per the decision taken by the Central Government all posts in the non statutory canteen and Tiffin Rooms run departmentally by the Government of India were treated as posts in connection with the affairs of the union and incumbent of such posts declared as holder of Civil posts. Accordingly a set of Rules called the Departmental Canteen Employees Recruitment and Condition of Service Rules 1980 was notified. Some section of the canteen employees filed a writ petition before the Hon'ble Supreme Court (**C K Jha and others vs. Union of India**) praying to treat them equally and at par with the general central government employees. The Hon'ble Supreme Court passed an interim order dated 26.09.1983 directing the Central Government to pay all employees of the non statutory canteen at the same rate and same basis on which statutory canteen employees being paid. In the said writ application final order was passed on 11.10.1991 in which the Hon'ble Supreme Court came to hold that the Principle decided in the case of **M MR Khan and others vs. UOI** squarely applies. While allowing the writ petition the court observed that certain reliefs granted by the interim order dated 26.09.1983 shall deemed to be operative from that date of order. In case any further benefits are admissible, those will be effective from 01.10.1991. For the purpose of calculation of pension, service from the date of interlocutory order shall be counted. Based on the said order of the Hon'ble Supreme Court the DOPT in consultation with the Ministry of Law and Ministry of Finance issued O M No. 12-5-1991 as per which the employees of the canteens are to be extended all benefits as are available to other Central Government Employees of comparable status except GPF Pension and Group insurance in respect of which separate instruction would be issued. Accordingly separate instructions were issued. The service of departmental canteen employees are governed by separate rules framed under constitutional provision. It is a decentralized Cadre as each Ministry frames its own Recruitment Rules.

4. The claimant Bansi Dhar was appointed as bearer w.e.f 05.04.1974 in the pre revised scale of 2610-3540 as recommended by 5th CPC in the departmental canteen. As per his service record, his educational qualification has been noted as Nil which means he had not passed the required educational qualification. The claimant had made a demand for grant of ACP in the scale of 4000-6000 as has been granted to one Virender Singh by Ministry of Defence in the tune of DOPT Memo No. 03-04-2005. But Bansi Dhari the claimant, stands in a different footing as he was appointed as a bearer on 09.02.1976 in the pay scale of 2610-3540 in the pre revise scale. He was granted first and second ACP on completion of 12 and 24 years in the pay scale of 3050-4590 and 3200-4000 respectively w.e.f 09.08.1990 and 26.09.2007. This was allowed on completion of years of service reckonable from the year 1983 as directed by the Hon'ble Supreme Court. He has been granted 3rd financial upgradation under MACP Scheme Pay Band-I, GP 2400 w.e.f 26.09.2013. Hence, he is not entitled to the financial upgradation of ACP as claimed by him. It has also been stated that on the basis of the recommendation of 5th CPC, ACP Scheme was introduced for Central Government Employees vide OM No. 35034/1/1997 dated 09.08.1999. As per this scheme the employee would be eligible for 2 financial upgradation on completion of 12 years and 24 years of regular service respectively and the said financial upgradation under ACP was available only if no regular promotion during the prescribed period of 12 and 24 years have been availed. In this case for the two upgradations allowed as per his eligibility the claimant was not found entitled to the ACP scale as claimed by him. But he was granted 3rd financial upgradation under MACP w.e.f 26.09.2013. Though, the ACP scheme which became operational from 09.08.1999 was applicable to the non statutory canteen employees the claimant is not entitled to the same. For the purpose of determining the eligibility for consideration of the financial upgradation under the ACP Scheme the service rendered by the canteen employees is reckonable from 26.09.1983 i.e from the date of interim order passed by the Hon'ble Supreme Court or actual appointment in regular service whichever is later. The claimant is thus, not entitled to the ACP as claimed by him. The government on considering the recommendation of 5th CPC decided to grant revised scale of pay to the common category of non statutory canteen employees in different offices. As per the said revision a bearer was to get the revised pay scale of 2610-60-3150-65-3540. It is correct that as per the recommendations of 5th CPC. The ACP notified on 09.08.1999 was extended to the employees of non-statutory canteens located in Central Government Offices. As per the scheme, employees would be illegible for minimum of two financial of upgradation in the entire service career on completion of 12 and 24 years of regular services. As per this scheme conditions no. 6, in annexure 1 to OM No. 35034/1/97 dated 09.08.1999 all promotion norms have to be fulfilled for upgradation under the scheme. Following the Supreme Court order the hierarchy and scale of canteens employees was modified taking into consideration the implementation of SIU(Staff Inspection Unit) and DOPT issued OM no. 03/10/2001 dated 22.12.2004.

5. The ACP scheme for employees of non-statutory canteens was further revised vide DOPT letter no. 314/2005 dated 14.01.2008. To obviate certain anomalies, the scale to be given on grants of first ACP was annexed to the said letter. Owing to implementation of the said ACP order dated 14.01.2008, again certain anomalies cropped in while the pay was fixed. Thus, the same was again brought to the notice of DOPT. Thereafter the ACP scheme was partially reviewed and modified in respect of the ACP to be granted to the bearers/and the coffer/Tea makers in the pay scale of Rs. 2610/3540 indicating that the persons who are matriculate and eligible for the promotion post for clerk in the pay scale 3050-4590 and second promotion to the post of Assistant Manager-cum-store keeper shall be granted ACP in the pay scale of 4000-6000 as per the recruitment rules. The non-matriculate bearers were illegible for first promotion to the post of Assistant halwai cum- cook in the scale of 3050-4590 and second promotion to the post of halwai-cum-cook in the pay scale of 3200-4900. Accordingly, OM no. 3/4/2005 dated 25.07.2012 was issued. Since the claimants' education as per his service record was recorded as Nil, he was considered in the non-matriculate category. It was also noticed that the claimant had already been granted two financial upgradation on his 12th year and before 24 years of service. Thus the first and second ACP were justifiably granted. He was granted third upgradataion under MACP. Hence, his claim is not maintainable.

6. The claimant filed replication denying the stand of the management.

On these rival pleadings the following issues were framed.

ISSUES

1. Whether refusal to grant ACP in the scale of 4000-6000 to the workman by the management of non-statutory canteen is just fared and legal? If so its effect.
2. 2. If not, what relief the claimant is entitled to and from which dated.

The claimant examined himself as WW1 and filed a series of documents which are all Governments notification and orders related to grant of ACP issued from time to time. Similarly, on behalf of the management one Kulbhusan Malhotra, Under Secretary DOPT testified as MW1. He also exhibited a series of documents marked as MW1/1 to MW1/36.

7. At the outset of the arguments the Ld. A/R for the management challenged the jurisdiction of this tribunal to the adjudicated upon the issue.

It was argued that the claimant having been declared as holder of Civil posts under the Central Government with effect from first day of October 1979, as per the Government's notification dated 11th Dec 1979 and the recruitment rules has been separately framed, every person appointed or deemed to have been appointed under the said rule, is a central government employee and as such the provisions of ID Act, are not applicable in as much as the office of the respondent is not an industry under the Industrial Dispute Act. Moreover, as per rules 7 of Central Civil Services classification control and appeal rules are deemed to be included in the General Central Services of corresponding group. As such the dispute relating to them are either to be dealt by the Central Administrative Tribunal or under the writ jurisdiction of the Hon'ble High court. He thereby prayed for dismissal of the claim petition for want of jurisdiction. It was also pointed out that the issue came before the Hon'ble Supreme Court in Civil appeal no. 6462 and 6464 of 2003 against the order passed by the Hon'ble High Court of Bombay, in the case of Umesh Korga bhandari vs. Mahanagar Telephone Nigam. The Hon'ble Supreme Court after a detail consideration referred the matter to a higher bench which is still pending. Hence, the order passed by the Hon'ble Division Bench of Bombay in the case of Mahanagar Telecom Nigam referred supra holding that the dispute of canteen employees is not maintainable under section 109(1) of the ID Act is not maintainable, holds good in the file. The reply arguments of the Ld. A/R for the claimant is that the proceedings are maintainable and similar orders have earlier been passed by this Tribunal. This aspect shall be dealt while dealing with the issue relating to ACP.

FINDINGS

8. The admitted facts are that the workman was appointed as a bearer on 09.02.1976 and retired from service in the year 2015. Pursuant to the order passed by the Hon'ble Supreme Court the DOPT issued an order dated 03.11.1983 granting all the benefits granted to the employees of statutory canteens. The Hon'ble Supreme Court passed the final order on 11.10.1991 and pursuant thereto a decision was taken by the Government of India and all posts in the non-statutory canteens and Tiffin room run departmentally by the Government of India were treated as posts in connection the affairs of the Union and the incumbents of such posts were treated as holders of the civil posts with effect from 1.10.1979 pursuant to the notification rules were framed under the proviso to article 309 of the Constitution of India governing the service condition of the canteen employees. The canteen employees since filed writ petition before the Hon'ble Supreme Court in the case titled C.K. Jha and others vs. Union of India, an order was passed directing the central government to pay all employees of non statutory canteens at the same rate and at the same basis on which employees of statutory canteen are paid. The claimant as per the claim statement was appointed as a bearer on 20.10.1972. The Government declared all the employees of non statutory canteens as holders of civil posts under the Central Government. By notification dated 23.12.1980, GSR 54 as per which the claimant and others were declared as holder of civil posts under the central government with effect from first day of October 1979. Under the service rule, framed every person recruited to the services after 1st October 1979 has to complete a six month period of probation. A member of the service who complete his period of probation satisfactorily shall be deemed to have been appointed on regular basis with effect from the date he completes his period of probation. The claimant since completed the period of probation as per the recruitment rules he was granted the pay scale of Rs. 160-275. The general secretary, as the representative of the workman had filed writ petition before the Supreme Court for grant of similar benefits as extended to the employees of statutory canteens. The Supreme Court passed an interim order and on the basis of the said order the interim relief was granted by the Government by the order of DOPT dated. 03.11.1983. It is also admitted that the Hon'ble Supreme Court in the said writ petition passed the final order dated 11.10.1991 and pursuant thereto the interim relief granted was deemed to be extended from 03.11.1983 and any additional benefit to be granted shall be admissible with effect from 01.10.1991. The pay commission in the year 1996 recommended that the employees of statutory and non statutory canteens as per the order of the Hon'ble Supreme Court be treated at par and similar benefits shall be admissible to them since they have already been declared as civil employees. The claimant was appointed as bearer with effect from 20.10.1972 in the pre revised scale of 2610-3540. As per 5th CPC the ACP scheme became operational from 09.08.1999 and as per the said scheme the ACP was made applicable to the non-statutory canteens employees too. Before that in order to draw parity in the cadre of statutory and non statutory and canteens employees the Govt. had constituted a staff inspection unit which had recommended re-structuring of the post and the admissible pay scale.

9. The claimant in his oral testimony has stated that the ACP was admissible as a mode of financial upgradation to the employees who could not get promotion within 12 years or 24 years of regular service as the first and second ACP. Though the scheme was extended to the non statutory canteen employees and the claimant was entitled to first ACP in the pay scale of 3050-4500 and later on when promoted as cook which was re-designated as Assistant Halwai cum cook as per the recommendation of 5th pay commission he should have been allowed second ACP in the pay scale of 4000-6000 and third MACP in the pay scale of 5000-8000. The Management without application of mind refused to grant him second ACP in the scale of 4000-6000 which substantially affected his pay and pension. It has also been stated that the post of cook and clerk in the non

statutory Canteen have been treated as skilled post and the clerk obtained an order from the principal Bench CAT New Delhi for grant of second ACP in the scale of 4000-6000. Thereby the claimant has prayed that a direction be issued to the management for grant of second ACP to him from the date it is admissible in the scale of 4000-6000.

10. The witness examined on behalf of the management while relying upon a series of documents submitted that the claimant has given misleading picture of the ACP allowed to the clerk of not statutory canteens. As per the direction of the Supreme Court the employees of the not statutory canteen were declared as central government employees with effect from 01.10.1991 and all the benefits of central government employees of comparable status were allowed. On the basis of recommendation of fifth CPC, ACP was introduced for central government employees by notification dated 09.08.1999. As per this scheme the employees would be eligible for two financial up gradation on completion of 12 years and 24 years of regular service respectively. The financial up gradation under ACP scheme was available only if no regular promotion during the prescribed period 12-24 years have been availed by the employee. In the case the claimant he got the first and second ACP in the scale 3050-4590 and 3200-4900 with grade pay of 2000. As such the question of non grant of ACP doesn't arise and he was rightly granted third financial up gradation under MACP with effect from 26.09.2013. Hence, he got all his dues and the claim is not maintainable.

11. The ACP scheme became operational from 09.08.1999 which is the date of issue of OM no. 35034/1/1997. This scheme was extended to the canteen employees by OM no. 3/4/1999 dated 25.07.2000. As per this notification for the purpose of determining the eligibility for financial up gradation of the canteen employees under the ACP scheme the service rendered by the canteen employees was reckonable from 26.09.1983 that is the date of interim order passed by the Hon'ble Supreme Court. As seen from the notification issued by the Ministry of Finance Department of Expenditure notification no. F.50(1/IC/97) dated 30th Sept 1997, it was decided to revised the pay scale to the common category department canteen employees and non statutory canteen in various offices of the government. As per the said notification the pay scale of the bearer was revised to 2615-3540. The claimant was granted first and second ACP on completion of 12 and 24 years. This has been admitted by the claimant that he got 2 ACPs on completion of 12 and 24 years. Moreover, the management has stated that the claimant was not entitled to ACP scale as a matriculate making him eligible for first promotion to the post of clerk and second promotion to the post of Assistant management cum store keeper. The MACP has been granted to him as a non matriculate bearer which is justified. Thus, on a careful analysis of the evidence and the documents relied upon by the claimant as well as management, it is held that the claimant is not entitled to ACP in the sale of 4000-6000 as claimed by him. The issue is accordingly answered accordingly. Be it stated that the case of the claimant in ID No. 07/2009, decided earlier by this tribunal granting ACP in the scale of 4000-6000 is distinguishable on facts, as the claimant of that proceeding was a matriculate and eligible for promotion to the post of clerk and then to the post of storekeeper.

12. In view of the decision arrived whiling deciding issue no. 1 it is held that the claimant is not entitled to the relief sought for. Hence ordered.

ORDER

The claim petition be and the same is dismissed on contest. It is held that the claimant is not entitled to the grant of ACP as claimed by him. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 224.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सचिव, गैर सांविधिक कैंटीन, कार्मिक विभाग, सरकार ऑफ इंडिया, नॉर्थ ब्लॉक, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री जगदीश, कामगार, द्वारा अखिल भारतीय केन्द्रीय सरकार कैंटीन कर्मचारी एसोसिएशन, लाडो सराय, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ सं. 66/2014) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 16.02.2023 को प्राप्त हुआ था।

[सं. एल-42011/64/2014 -आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 224.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/2014) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Secretary, Non Statutory Canteen, Dept. of Personal, Govt. of India, North Block, New Delh, and Shri Jagdish , Worker, through All India Central Govt. Canteen Employees Association, Lado Sarai, New Delhi, which was received along with soft copy of the award by the Central Government on 16.02.2023.

[No. L-42011/64/2014 –IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. PRANITA MOHANTY, Presiding Officer,
C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE No. 66/2014

Date of Passing Award- 23rd January, 2023.

Between:

Shri Jagdish,
Through All India Central Govt. Canteen Employees
Association,
F-48, Lado Sarai,
New Delhi-110030.

... Workman

Versus

The Secretary,
Non Statutory Canteen, Dept. of Personal,
Govt. of India, North Block,
New Delhi 110001.

... Management

Appearances:-

Shri G K Mall,
(Advocate)

For the Workman

Shri Atul Bhardwaj
(Advocate)

For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Non Statutory Canteen, Dept. of Personal, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 42011/64/2014 (IR(DU)) dated 17/07/2014 to this tribunal for adjudication to the following effect.

“Whether refusal to grant ACP in the scale of 4000-6000 to Shri Jagdish, the workman by the management of Non statutory Canteen, Ministry of Defence under Joint Secretary Training and CAO in the tune of Memo No. 03/04/2005-Dir. (C) dated 25.07.2012 is just fair and legal? If not what relief the workman concerned are entitled to?”

1. As per the claim statement the claimant workman was appointed as a bearer on 13.06.2008 in the Non Statutory Canteen under the management of the Joint Secretary Training and CAO New Delhi. As per a decision taken by the Government of India all posts in the Non Statutory Canteen and Tiffin Rooms run departmentally were treated as posts in connection with the affairs of the union and incumbent of such posts were declared as holders of Civil Posts under the Central Government. A notification to that effect was issued by the government on 11.12.1979. The said order was given effect from 01.10.1979. In the said order it was laid down that the condition of service of the incumbents of these posts will be framed under the proviso to article 309 of the constitution of India and shall be applicable retrospectively from 01.10.1979. Thereafter in exercise

of the power as directed in the memorandum the Government framed the Rule to regulate the method of recruitment and condition of service of persons appointed to such civil posts. According to that rule specific provision were made in respect of the period of probation for the persons appointed between the period commencing from 1st day of October 1979 and ending with the date of publication of the Rule in the official gazette. According to this rule a member of the service who complete the period of probation shall be deemed to have been appointed on regular basis w.e.f the date he completes the probation. If any person has not completed 6 months on the date of publication of the rule his period of probation will be extended upto the date he completes 6 months service and the period of probation can be extended for another period of 6 months in case the period of probation is not found satisfactory. The claimant workman had successfully completed the period of probation as per the Recruitment Rule i.e GSR 54 and accordingly he was treated as a permanent employee and granted the pay scale of Rs. 160-275. The general secretary of the union as the representative of the claimant and persons in the same footing had filed a writ petition bearing No. WPC 6189-7044 of 1983 and 8426-8455 of 1983 before the Hon'ble Supreme Court asking for a similar benefit as granted to the Non Statutory Canteen employees. It was prayed that the benefit be granted w.e.f 22.10.1980. The Hon'ble Supreme Court passed an interim order in this regard. Pursuant thereto the DOPT issued an office memorandum dated 03.11.1983 deciding that in compliance to the interim direction of the Hon'ble Supreme Court, the pay of the employees in Non Statutory Canteen may be fixed in the revised scale w.e.f 26.09.1983 as indicated in column -III of the annexure to the said office memorandum. The manner in which the pay scale is to be revised was also indicated in the said office memorandum. The Hon'ble Supreme Court in the above said writ petition passed the final order on 11.10.1991 wherein it was directed that the benefits granted in the interim order dated 26.09.1983 shall deemed to be operative from that date. Any further benefit is admissible, those will be admissible from 01.10.1991. Pursuant thereto the Government of India Ministry of Personal and public grievance issued another office memorandum dated 29th January 1992, declaring all employees of Non Statutory Canteen, departmental Cooperative Canteen registered with the Director of the canteen a central government employee w.e.f 01.10.1991. The pay commission, in the year 1996, also recommended that from 01.10.1991 all the benefits available to the other central government employee or comparable status should be extended to the employees of Non Statutory Canteen. It was also recommended by the pay commission that the posts of cook and assistant Halwai be upgraded to the pay scale of Rs. 950 to 1500/- as these are skilled posts and demand for the corresponding pay scale is justified.

2. The Ministry of Finance, department of expenditure, constituted a committee named Staff Inspection Unit to resolve the issue and the committee recommended the pay scale for all the posts in the Non Statutory Canteen in its report submitted in May 2003. This report was reviewed by the Ministry of Finance and final orders were issued on 22.12.2004 in which designation of the posts were restructured. But the recommendation of the staff inspection unit with regard to the pay scale of Bearer Assistant Halwai cum cook was not considered nor any association was communicated about the adverse effects of the benefits which stands contrary to the observation of the Hon'ble Supreme Court in the case of **MMR Khan vs. Union of India**. Though the post of Assistant Halwai and cook as well as Halwai is skilled work and their duties and responsibility is the same as that of the clerk in the non statutory canteen the same was not considered at all. While the matter stood thus, the clerks appointed in different non statutory canteens had challenged the pay scale of 3200-4900 granted to them before the Principle Bench CAT Delhi through their Association. The Hon'ble CAT, in OA No. 714 of 2005 passed an order directing that the canteen clerks have to be granted the benefit of ACP in the pay scale of Rs. 4000-6000 and this aspect be considered by the government. Pursuant to the said order of the Hon'ble CAT the government of India (DOPT) issued an order dated 19th April 2006 in which the pay scale of Rs 4000-6000 is allowed to the clerks working in the non statutory canteen during grant of ACP. The similar scale was granted to the cooks and Head cooks of the non statutory canteens run by the department of space, DRDO, etc. thus, the association of the claimant served a demand notice for grant of the pay scale of Rs. 4000-6000 to the claimant and the persons of same rank w.e.f 09/08/1999. But the same was not considered by the management nor it was forwarded to DOPT for consideration. It has also been stated that the similar dispute was raised before the industrial Tribunal in ID NO.7/2009 in which the claimant Rajender Sharma was bearer in the non statutory canteen under DRDO. The Industrial Tribunal by the Award allowed the pay scale of Rs. 4000-6000 in grant of ACP to the bearers of that canteen. The claimant through its union raised a dispute before the conciliation officer. During conciliation the management raised dispute that the claimant since has been treated as civilian Central Government Employees, cannot invoke the provisions of ID Act. But the Hon'ble Supreme Court in WPC No. 248 of 1985 have clearly held that Id Act is applicable to all the canteen employees. The conciliation since failed the appropriate government referred the matter to this tribunal for adjudication. The claimant has pleaded that the action of the management in not granting him ACP in the scale of 4000-6000 is illegal and a direction be issued in this regard.

3. The management filed written statement challenging the maintainability of the present proceeding before this tribunal. In addition to that it has been pleaded that the canteen workers are now holders of Civil Post and as per Rule 7 of the Central Civil Service Classification control and Appeal Rules they are included in the General Central Service of the corresponding Group. As per the decision taken by the Central Government

all posts in the non statutory canteen and Tiffin Rooms run departmentally by the Government of India were treated as posts in connection with the affairs of the union and incumbent of such posts declared as holder of Civil posts. Accordingly a set of Rules called the Departmental Canteen Employees Recruitment and Condition of Service Rules 1980 was notified. Some section of the canteen employees filed a writ petition before the Hon'ble Supreme Court (**C K Jha and others vs. Union of India**) praying to treat them equally and at par with the general central government employees. The Hon'ble Supreme Court passed an interim order dated 26.09.1983 directing the Central Government to pay all employees of the non statutory canteen at the same rate and same basis on which statutory canteen employees being paid. In the said writ application final order was passed on 11.10.1991 in which the Hon'ble Supreme Court came to hold that the Principle decided in the case of **M MR Khan and others vs. UOI** squarely applies. While allowing the writ petition the court observed that certain reliefs granted by the interim order dated 26.09.1983 shall deemed to be operative from that date of order. In case any further benefits are admissible, those will be effective from 01.10.1991. For the purpose of calculation of pension, service from the date of interlocutory order shall be counted. Based on the said order of the Hon'ble Supreme Court the DOPT in consultation with the Ministry of Law and Ministry of Finance issued O M No. 12-5-1991 as per which the employees of the canteens are to be extended all benefits as are available to other Central Government Employees of comparable status except GPF Pension and Group insurance in respect of which separate instruction would be issued. Accordingly separate instructions were issued. The service of departmental canteen employees are governed by separate rules framed under constitutional provision. It is a decentralized Cadre as each Ministry frames its own Recruitment Rules.

4. The claimant Jagdish Chand was appointed as bearer w.e.f 20.10.1972 in the pre revised scale of 2610-3540 as recommended by 5th CPC in the departmental canteen. As per his service record, his educational qualification has been noted as Nil which means he had not passed the required educational qualification. The claimant had made a demand for grant of ACP in the scale of 4000-6000 as has been granted to one Virender Singh by Ministry of Defence in the tune of DOPT Memo No. 03-04-2005. But Jagdish Chand the claimant, stands in a different footing as he was appointed as a bearer on 20.10.1972 in the pay scale of 2610-3540 under the 5th CPC Scale. He was promoted as Assistant Halwai cum Cook on 01.08.1984 in the scale of 3050-4590 under the 6th CPC. He was further promoted to the post of Halwai cum cook on 01.11.2006 in the pay scale of 3200-4900 with revised grade pay of Rs. 2000 in PB-I under 6th CPC. For the purpose of determining the eligibility for consideration of financial upgradation of the canteen employee under ACP Scheme, the service rendered by a canteen employee is reckonable from 26.09.1983 or on the actual appointment in regular pay scale whichever is later. Accordingly the claimant was not considered for first and second financial upgradation under ACPS as he has already earned two promotions i.e first promotion before 12 years and the second promotion before completion of 24 years of service. He has been granted 3rd financial upgradation under MACP Scheme Pay Band-I, GP 2400 w.e.f 26.09.2013. Hence, he is not entitled to the financial upgradation of ACP as claimed by him. It has also been stated that on the basis of the recommendation of 5th CPC, ACP Scheme was introduced for Central Government Employees vide OM No. 35034/1/1997 dated 09.08.1999. As per this scheme the employee would be eligible for 2 financial upgradation on completion of 12 years and 24 years of regular service respectively and the said financial upgradation under ACP was available only if no regular promotion during the prescribed period of 12 and 24 years have been availed. In this case for the promotions allowed the claimant was not entitled to ACP. But he was granted 3rd financial upgradation under MACP w.e.f 26.09.2013. Though, the ACP scheme which became operational from 09.08.1999 was applicable to the non statutory canteen employees the claimant is not entitled to the same. For the purpose of determining the eligibility for consideration of the financial upgradation under the ACP Scheme the service rendered by the canteen employees is reckonable from 26.09.1983 i.e from the date of interim order passed by the Hon'ble Supreme Court or actual appointment in regular service whichever is later. The claimant is thus, not entitled to the ACP as claimed by him. The government on considering the recommendation of 5th CPC decided to grant revised scale of pay to the common category of non statutory canteen employees in different offices. As per the said revision a bearer was to get the revised pay scale of 2610-60-3150-65-3540. It is correct that as per the recommendations of 5th CPC. The ACP notified on 09.08.1909 was extended to the employees of non-statutory canteens located in Central Government Offices. As per the scheme employees would be illegible for minimum of two financial of upgradation in the entire service career on completion of 12 and 24 years of regular services. As per this scheme conditions no. 6 in annexure 1 to OM No. 35034/1/97 dated 09.08.1999 all promotion norms have to be fulfilled for up gradation under the scheme. Following the Supreme Court order the hierarchy and scale of canteens employees was modified taking into consideration the implementation of SIU(Staff Inspection Unit) and DOPT issued OM no. 03/10/2001 dated 22.12.2004.

5. The ACP scheme for employees of non-statutory canteens was further revised vide DOPT letter no. 314/2005 dated 14.01.2008. To obviate certain anomalies, the scale to be given on grants of first ACP was annexed to the said letter. Owing to implementation of the said ACP order dated 14.01.2008, again certain anomalies cropped in while the pay was fixed. Thus, the same was again brought to the notice of DOPT. Thereafter the ACP scheme was partially reviewed and modified in respect of the ACP to be granted to the bearers/and the coffer/Tea makers in the pay scale of Rs. 2610/3540 indicating that the persons who are

matriculate and eligible for the promotion post for clerk in the pay scale 3050-4590 and second promotion to the post of Assistant Manager-cum-store keeper shall be granted ACP in the pay scale of 4000-6000 as per the recruitment rules. The non-matriculate bearers were illegible for first promotion to the post of Assistant halwai cum-cook in the scale of 3050-4590 and second promotion to the post of halwai-cum-cook in the pay scale of 3200-4900. Accordingly, OM no. 3/4/2005 dated 25.07.2012 was issued. Since the claimants' education as per his service record was recorded as nil, he was considered in the non-matriculate category. It was also noticed that the claimant had already been granted two promotions on his 12th year and before 24 years. Thus the first and second ACP were justifiably not granted. He was granted third upgrading under MACP. Hence, his claim is not maintainable.

6. The claimant filed replication denying the stand of the management.

On these rival pleadings the following issues were framed.

ISSUES

1. Whether refusal to grant ACP in the scale of 4000-6000 to the workman by the management of non-statutory canteen is just fared and legal? If so its effect.
2. If not, what relief the claimant is entitled to and from which dated.

The claimant examined himself as WW1 and filed a series of documents which are all Governments notification and orders related to grant of ACP issued from time to time. Similarly, on behalf of the management one Kulbhusan Malhotra, Under Secretary DOPT testified as MW1. He also exhibited a series of documents marked as MW1/1 to MW1/36.

7. At the outset of the arguments the Ld. A/R for the management challenged the jurisdiction of this tribunal to the adjudicated upon the issue.

It was argued that the claimant having been declared as holder of Civil posts under the Central Government with effect from first day of October 1979, as per the Governments notification dated 11th Dec 1979 and the recruitment rules has been separately framed, every person appointed or deemed to have been appointed under the said rule, is a central government employees and as such the provisions of ID Act, are not applicable in as much as the office of the respondent is not an industry under the Industrial Dispute Act. Moreover, as per rules 7 of Central Civil Services classification control and appeal rules are deemed to be included in the General Central Services of corresponding group. As such the dispute relating to them are either to be dealt by the Central Administrative Tribunal or under the writ jurisdiction of the Hon'ble High court. He thereby prayed for dismissal of the claim petition for want of jurisdiction. It was also pointed out that the issue came of before the Hon'ble Supreme Court in Civil appeal no. 6462 and 6464 of 2003 against the order passed by the Hon'ble High Court of Bombay, in the case of Umesh Korga bhandari vs. Mahanagar Telephone Nigam. The Hon'ble Supreme Court after a detail consideration referred the matter to a higher bench which is still pending. Hence, the order passed by the hon'ble Division Bench of Bombay in the case of Mahanagar Telecom Nigam referred supra holding that the dispute of canteen employees is not maintainable under section 1091) of the Id Act is not maintainable, holds good in the file. The reply arguments of the Ld. A/R for the claimant is that the proceedings is maintainable and similar orders have earlier been passed by this Tribunal. This aspect shall be dealt while dealing with the issue relating to ACP.

FINDINGS

8. The admitted facts are that the workman was appointed as a bearer on 20.10.1972 and retired from service in the year 2013. Pursuant to the order passed by the Hon'ble Supreme Court the DOPT issued an order dated 03.11.1983 granting all the benefits granted to the employees of statutory canteens. The Hon'ble Supreme Court passed the final order on 11.10.1991 and pursuant thereto a decision was taken by the Government of India and all posts in the non-statutory canteens and Tiffin room run departmentally by the Government of India were treated as posts in connection the affairs of the Union and the incumbents of such posts were treated as holders of the civil posts with effect from 1.10.1979 pursuant to the notification rules were framed under the proviso to article 309 of the Constitution of India governing the service condition of the canteen employees. The canteen employees since filed writ petition before the Hon'be Supreme Court in the case titled C.K. Jha and others vs. Union of India, an order was passed directing the central government to pay all employees of non statutory canteens at the same rate and at the same basis on which employees of statutory canteen are paid. The claimant as per the claim statement was appointed as a bearer on 20.10.1972. The Government declared all the employees of non statutory canteens as holders of civil posts under the Central Government. By notification dated 23.12.1980, GSR 54 as per which the claimant and others were declared as holder of civil posts under the central government with effect from first day of October 1979. Under the service rule, framed every person recruited to the services after 1st October 1979 has to complete a six month period of probation. A member of the service who complete his period of probation satisfactorily shall be deemed to have been appointed on regular basis with effect from the date he completes his period of probation The claimant since completed the

period of probation as per the recruitment rules he was granted the pay scale of Rs. 160-275. The general secretary, as the representative of the workman had filed writ petition before the Supreme Court for grant of similar benefits as extended to the employees of statutory canteens. The Supreme Court passed an interim order and on the basis of the said order the interim relief was granted by the Government by the order of DOPT dated. 03.11.1983. It is also admitted that the Hon'ble Supreme Court in the said writ petition passed the final order dated 11.10.1991 and pursuant thereto the interim relief granted was deemed to be extended from 03.11.1983 and any additional benefit to be granted shall be admissible with effect from 01.10.1991. The pay commission in the year 1996 recommended that the employees of statutory and non statutory canteens as per the order of the Hon'ble Supreme Court be treated at par and similar benefits shall be admissible to them since they have already been declared as civil employees. The claimant was appointed as bearer with effect from 20.10.1972 in the pre revised scale of 2610-3540. As per 5th CPC the ACP scheme became operational from 09.08.1999 and as per the said scheme the ACP was made applicable to the non-statutory canteens employees too. Before that in order to draw parity in the cadre of statutory and not statutory and canteens employees the Govt. had constituted a staff inspection unit which had recommended re-structuring of the post and the admissible pay scale.

9. The claimant in his oral testimony has stated that the ACP was admissible as a mode of financial up gradation to the employees who could not get promotion within 12 years or 24 years of regular service as the first and second ACP. Though the scheme was extended to the non statutory canteen employees and the claimant was entitled to first ACP in the pay scale of 3050-4500 and later on when promoted as cook which was re-designated as Halwai cum cook as per the recommendation of 5th pay commission he should have been allowed second ACP in the pay scale of 4000-6000 and third MACP in the pay scale of 5000-8000. The Management without application of mind refused to grant him second ACP in the scale of 4000-6000 which substantially affected his pay and pension. It has also been stated that the post of cook and clerk in the non statutory have been treated as skilled post and the claimant obtained an order from the principal Bench CAT New Delhi for grant of second ACP in the scale of 4000-6000. Thereby the claimant has prayed that a direction be issued to the management for grant of second ACP to him from the date it is admissible in the scale of 4000-6000.

10. The witness examined on behalf of the management while relying upon a series of documents submitted that the claimant has given misleading picture of the ACP allowed to the clerk of non statutory canteens. As per the direction of the supreme court the employees of the non statutory canteen were declared as central government employees with effect from 01.10.1991 and all the benefits of central government employees of comparable status were allowed. On the basis of recommendation of fifth CPC, ACP was introduced for central government employees by notification dated 09.08.1999. As per this scheme the employees would be eligible for two financial up gradation on completion of 12 years and 24 years of regular service respectively. The financial up gradation under ACP scheme was available only if no regular promotion during the prescribed period 12-24 years have been availed by the employee. In the case of the claimant he got his first promotion on 01.08.1984 in the scale 3050-4590 and the second promotion 01.11.2006 in the scale of 3200-4900 with grade pay of 2000. As such the question for grant of ACP doesn't arise and he was rightly granted third financial up gradation under MACP with effect from 26.09.2013. Hence, he got all his dues and the claim is not maintainable.

11. The ACP scheme became operational from 09.08.1999 which is the date of issue of OM no. 35034/1/1997. This scheme was extended to the canteen employees by OM no. 3/4/1999 dated 25.07.2000. As per this notification for the purpose of determining the eligibility for financial up gradation of the canteen employees under the ACP scheme the service rendered by the canteen employees was reckonable from 26.09.1983 that is the date of interim order passed by the Hon'ble Supreme Court. As seen from the notification issued by the Ministry of Finance Department of Expenditure notification no. F.50(1/IC/97) dated 30th Sept 1997, it was decided to revise the pay scale to the common category department canteen employees and non statutory canteen in various offices of the government. As per the said notification the pay scale of the bearer was revised to 2615-3540. The claimant was promoted 01.08.1994 and again on 01.11.2006 that is on the 12th year and before 24th year of continuous service. Thus, his claim for grant of ACP was not allowed since he was granted two promotion during this period. This has been admitted by the claimant that he got promotion 01.08.1984 and 01.11.2006 and such the management has rightly denied him ACP though he was granted a MACP. Moreover, the management has stated that the claimant was not entitled to ACP scale as a matriculate making him eligible for first promotion to the post of clerk and second promotion to the post of Assistant management cum store keeper. The MACP has been granted to him as a non matriculate bearer which is justified. Thus, on a careful analysis of the evidence and the documents relied upon by the claimant as well as management, it is held that the claimant is not entitled to ACP in the scale of 4000-6000 as claimed by him. The issue is accordingly answered accordingly. Be it stated that the case of the claimant in ID No. 07/2009, decided earlier by this tribunal granting ACP in the scale of 4000-6000 is distinguishable on facts, as the claimant of that proceeding was a matriculate and eligible for promotion to the post of clerk and then to the post of storekeeper.

12. In view of the decision arrived whiling deciding issue no. 1 it is held that the claimant is not entitled to the relief sought for. Hence ordered.

ORDER

The claim petition be and the same is dismissed on contest. It is held that the claimant is not entitled to the grant of ACP as claimed by him. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 225.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नई दिल्ली नगरपालिका परिषद, पालिका केंद्र, संसद मार्ग, नयी दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्रीमती रानी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ सं. 145/2020) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.02.2023 को प्राप्त हुआ था।

[सं. एल-42011/100/2020-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 225.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 145/2020) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to New Delhi Municipal Council, Palika Kendra, Parliament Street, New Delhi and Smt. Rani, Worker, which was received along with soft copy of the award by the Central Government on 14.02.2023.

[No. L-42011/100/2020 –IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-II, NEW DELHI

Present: Smt. PRANITA MOHANTY

ID. No. 145/2020

Smt. Rani, W/o Sh. Raghubir,
Through, New Delhi Nagar Palika, Karamchari Union,
29, Palikagram Sarojini Nagar, New Delhi-110023.

... claimant

Versus

New Delhi Municipal Council,
Palika Kendra, Parliament Street,
New Delhi-110001.

... Management.

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. L-42011/100/2020 IR (DU) dated 21.09.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

“Whether the action of the management of New Delhi Municipal Council (NDMC) in not regularising applicant /workman Smt Rani W/o Sh. Raghubir, payment of arrear of DTL Scale as other malies have got and lawful promotion in rank as raised through, New Delhi Palika Karamchari Union is proper, legal and justified? If not, what relief the workman is entitled to and from which date? What other directions, if any, are necessary in this regard?”

In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

2. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on her behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

3. Since the workman has neither put in her appearance nor has she led any evidence so as to prove her cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 226.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार श्री वरुण गुप्ता मार्केटिंग मैनेजर, आईजीएल भवन, प्लॉट नंबर -704, कम्युनिटी सेंटर, सेक्टर -09, आर.के. पुरम, के.डी. कॉलोनी, नई दिल्ली ; अंताल्या एंटरप्राइजेज, द्वारा कर्नल शिराज वर्मा (मालिक), सेक्टर -37, नोएडा (उ.प्र.), के प्रबंधन के संबद्ध नियोजकों और श्री कपिल कुमार, कामगार , के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ सं. 198/2022) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.02.2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-65-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 226.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 198/2022) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to Shri Varun Gupta Marketing Manager, IGL Bhawan, Plot No-704, Community Centre, Sector -09, R.K. Puram, K.D. Colony, New Delhi ; Antalya Enterprises, Through— Col. Shiraj Verma (Proprietor), Sector -37, Noida (U.P.) and Shri Kapil Kumar, Worker, which was received along with soft copy of the award by the Central Government on 14.02.2023.

[No. L-42025/07/2023-65-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. Pranita Mohanty, Presiding Officer,
C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 198/2022**Date of Passing Award- 01.12.2022****Between:****Sh. Kapil Kumar, S/o Sh. Virendra Kumar,**R/o B-240/03, Krishna Kunj, Gali No-01,
North Ghonda, New Delhi-110053.

... Claimant

Versus

1. **Sh. Varun Gupta Marketing Manager,**
IGL Bhawan, Plot No-704, Community Centre,
Sector -09, R.K. Puram, K.D. Colony, New Delhi-110022.

2. **Antalya Enterprises,**
Through- Col. Shiraj Verma (Proprietor),
House No.1128, Sector -37,
Noida U.P. -201301.

....Managements

Appearances:-Shri Rahul Kumar
(A/R)

For the claimant

Shri Sarfaraz Ahmad
(A/R)

For the Management No.1

Shri Shiraz Verma (Proprietor)

For the Management No.2.

AWARD

This is an application filed by the claimant against the management No.1 and 2 alleging illegal termination of his service.

In the claim petition it has been stated that he was working in the premises of management No.1 through the service provider management No.2 for 13 years as a Technician. His last drawn wage per month was Rs. 16286/-. The management was not extending the benefits of leave, PF, ESI etc to the claimant despite demand. No appointment letter or salary slip was even provided by the employer. Thus, the claimant was often demanding those legitimate entitlements. The management instead of extending the benefit to him, on 30.11.2019 illegally terminated his service and at the time of termination, no notice of termination, notice pay, or termination compensation was paid. The efforts made by the claimants for reinstatement and grant of legitimate dues since failed he raised a dispute before the labour commissioner. But the management did not respond to the same. The managements though appeared did not agree to the terms of conciliation. Thus, the claimant filed the present claim petition praying reinstatement with back wages.

Notice being served the management No.1 and 2 appeared. Before filing of the written statement steps were taken for conciliation of the matter and the conciliation proceeding was held during the Lok Adalat held on 12.11.2022. For the terms of conciliation the claimant agreed to withdraw the claim having no grievance for the alleged illegal termination and gave a statement to that effect which has been recorded in a separate sheet attached to this record.

The proceeding is disposed of on conciliation as the claimant has disowned the claim against both the managements. Hence, ordered.

ORDER

The claim be and the same is disposed of for the no claim advanced by the claimant against the managements in respect of the alleged illegal termination of service. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 227.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मदर डेयरी फ्रूट एंड वेजिटेबल यूनिट, मंगोल पुरी इंडस्ट्रियल एरिया, फेज-1, नई दिल्ली; मेसर्स विजय लक्ष्मी मंसोल प्रा. लिमिटेड, रोहिणी, नई दिल्ली, के प्रबंधन के संबंधित नियोजकों और श्री पवन तिवारी और 13 अन्य, द्वारा दिल्ली समाजवादी औद्योगिक श्रमिक संघ (रजि.) किरारी सुलेमान नगर, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ सं.15/2020) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2023 को प्राप्त हुआ था।

[सं. एल-42011/5/2020-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 227.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2020) of the Central Government Industrial Tribunal cum Labour Court - I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to Mother Dairy Fruit and Vegetable Unit, Mangole Puri Industrial Area, Phase-1, New Delhi ;M/s Vijay Laxmi Mansol Pvt. Ltd., Rohini, New Delhi, Shri Pawan Tiwari & 13 others, Through Delhi Samajwadi Industrial Workers Union (regd.) Kirari Suleman Nagar, New Delhi, which was received along with soft copy of the award by the Central Government on 17.01.2023.

[No. L-42011/5/2020-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE COURT OF JUSTICE SHRI VIKAS KUNVAR SRIVASTAVA (RETD.), PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-I, NEW DELHI

ID. No 15/2020

Shri Pawan Tiwari & 13 others

Through the Union

Delhi Samajwadi Industrial Workers Union (regd.)

L-48, Prem Nagar-II, Kirari Suleman Nagar,

Near 40 Foota Road, New Delhi-110089

... Workmen

Versus

1. Mother Dairy Fruit and Vegetable Unit,
Mangole Puri Industrial Area, Phase-1,
New Delhi-110020.

2. M/s Vijay Laxmi Mansol Pvt. Ltd.,
204-206, Plot No.3, Aggarwal Plaza,
Rohini, New Delhi-110086

....Management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.42011/5/2020-IR(DU) of dated 20/01/2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether the services of Sh.Pawan Tiwari and 13 ors (details as per Annexure A) were terminated w.e.f 27.08.2019 by M/s Vijay Laxmi Mansol Pvt. Ltd., contractor, in the establishment of M/s Mother Dairy Fruit and Vegetable Unit Mangol Puri, Delhi is illegal and unjustified manner ? 2. If yes, whether these worker are entitled for reinstatement ? 3. What other reliefs the said workers are entitled ?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (RETD.), Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 228.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मदर डेयरी फ्रूट एंड वेजिटेबल यूनिट, मंगोल पुरी इंडस्ट्रियल एरिया, फेज-1, नई दिल्ली; मेसर्स विजय लक्ष्मी मंसोल प्रा. लिमिटेड, रोहिणी, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री महाराज सिंह और 2 अन्य, द्वारा दिल्ली समाजवादी औद्योगिक श्रमिक संघ (रजि.) किरारी सुलेमान नगर, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ सं. 20/2022) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2023 को प्राप्त हुआ था।

[सं. एल-42011/6/2020-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 228.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/2022) of the Central Government Industrial Tribunal cum Labour Court - I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to Mother Dairy Fruit and Vegetable Unit, Mangole Puri Industrial Area, Phase-1, New Delhi; M/s Vijay Laxmi Mansol Pvt. Ltd., Rohini, New Delhi, and Shri Maharaj Singh & 2 others, Through Delhi Samajwadi Industrial Workers Union (regd.) Kirari Suleman Nagar, New Delhi, which was received along with soft copy of the award by the Central Government on 17.01.2023.

[No. L-42011/6/2020-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE COURT OF JUSTICE SHRI VIKAS KUNVAR SRIVASTAVA (RETD.), PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT-I,
NEW DELHI

ID. No. 20/2020

Shri Maharaj Singh & 2 others
Through the Union
Delhi Samajwadi Industrial Workers Union (regd.)

L-48, Prem Nagar-II, Kirari Suleman Nagar,
Near 40 Foota Road, New Delhi-110089

....Workman

Versus

1. Mother Dairy Fruit and Vegetable Unit,
Mangole Puri Industrial Area, Phase-I,
New Delhi-110020.

2. M/s Vijay Laxmi Mansol Pvt. Ltd.,
204-206, Plot No.3, Aggarwal Plaza,
Rohini, New Delhi-110086

....Management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.42011/6/2020-IR(DU) of dated 21/01/2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether termination from services of Sh.Maharaj Singh, Shri Sanjay Kumar and Sh.Vishal Kumar, w.e.f. 18.12.2018 by M/s Vijay Laxmi Mansol Pvt. Ltd., contractor, in the establishment of M/s Mother Dairy Fruit and Vegetable Unit Mangol Puri, Delhi is legal and justified ? if Not, What relief the said workers are entitled to and to what extent ?

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award.

Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 229.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य परियोजना प्रबंधक-3, डीएमआरसी लिमिटेड, रेस कोर्स मेट्रो स्टेशन के पास, दिल्ली; प्रबंध निदेशक, एफईएमसी प्रतिभा-जेवी, यूनिवर्सल मैजेस्टिक टॉवर, ईस्टर्न एक्सप्रेस हाईवे, मुंबई, के प्रबंधतंत्र के संबद्ध नियोजकों और राजधानी भवन निरन कामगार, यूनियन (रजि.), नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ सं. 107/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2023 को प्राप्त हुआ था।

[सं. एल-42011/48/2019-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 229.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 107/2019) of the Central Government Industrial Tribunal cum Labour Court - I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in

relation to The Chief Project Manager-3, DMRC Ltd., Near Race Course Metro Station, Delhi; The Managing Director, FEMC Pratibha-JV, Universal Majestic Tower, Eastern Express Highway, Mumbai, and Rajdhani Bhawan Niran Kamagar, Union (Regd), New Delhi, which was received along with soft copy of the award by the Central Government on 17.01.2023.

[No. L-42011/48/2019-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT-I, NEW DELHI

Present: Smt. PARNITA MOHANTY

ID. No. 107/2019

Rajdhani Bhawan Niran Kamagar, Union (Regd)
13-A Rouse Avenue, B.T.R Bhawan,
New Delhi-110002

... Workman

Versus

1. The Chief Project Manager-3,
DMRC Ltd.,
Near Race Course Metro Station,
Delhi-110001.

2. The Managing Director,
FEMC Pratibha-JV, Universal Majestic Tower,
14th Floor, P.L. Marg, Eastern Express Highway,
Ghatkopar Mankurd Link Road,
Opp. RBK, Mumbai-400088

... Management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No.42011/48/2019-IR(DU) dated 11.04.2019 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether the action of management of FEMC Pratibha-JV in withholding the bonus of the workman and making deduction from the wages of the workman is illegal and/or unjustified and if so to what relief including interest, cost and compensation, the workman is entitled to? Whether the workman is entitled to boring allowance and if yes to what amount is he entitled?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 230.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रजिस्ट्रार, आईआईटी रुड़की, हरिद्वार, के प्रबंधन के संबद्ध नियोजकों और श्री तिलक राम, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ सं. 38/2010) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.02.2023 को प्राप्त हुआ था।

[सं. एल-42012/192/2010-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 230.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2010) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Registrar, IIT Roorkee, Haridwar, and Shri Tilak Ram, Worker, which was received along with soft copy of the award by the Central Government on 07.02.2023.

[No. L-42012/192/2010 –IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. PRANITA MOHANTY, Presiding Officer,
C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 38/2010

Date of Passing Award- 27th January, 2023.

Between:

Shri Tilak Ram,
S/o Shri Malkhan Singh,
R/o-Indra Vihar Colony, Sunehra Road,
Roorkee, Haridwar.

... Workman

Versus

The Registrar,
IIT Roorkee,
Haridwar.

... Management

Appearances:-

Shri N S Berchhiwal,
(Advocate)
Shri Sanjay Rawat
(Advocate)

For the Workman

For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of I.I.T, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 42012/192/2010 (IR(DU)) dated 27/10/2010 to this tribunal for adjudication to the following effect.

“Whether the action of the management IIT, Roorkee in disengaging /terminating the services of Shri Tilak Ram temporary sweeper w. e. f. 01/06/2007 without any notice and compensation in violation of section 25F, G

and H of the I D Act 1947, is legal and justified? If not, what relief the workman is entitled to?

As stated in the claim petition the claimant workman was working as a temporary sweeper (unskilled worker) in the establishment of the management since 17.09.1999. When he was discharging his duties to the satisfaction of the employer with sincerity, suddenly on 01.06.2007, the management discontinued his employment without assigning any reason. No notice of termination or notice pay was paid to him in gross violation of the provisions of ID Act, though he was working continuously since 1999 and had worked for 240 days in the calendar year preceding the date of his termination. The workman raised a dispute before the conciliation officer, where steps were taken to conciliate and resolve the issue. That attempt since failed, the Appropriate Govt. referred the matter for adjudication of the dispute. It has also been stated that the workman was in the pay roll of the management of IIT Roorkee and his is evident from the correspondence made by the head of IIT Roorkee to its Deputy Director. He was also getting Bonus like the regular employees which are evident from the payment vouchers too. Hence the termination of his service by the employer without assigning any reason and without complying with the provisions of sec 25F of the ID Act is illegal and the management be directed to reinstate him in service with immediate effect with back wages from the date of termination as he is unemployed since then.

The management of IIT Roorkee appeared and filed written statement refuting the stand of the claimant workman with regard to the alleged illegal termination. The management has denied its relationship with the claimant as the employer. However, it has been admitted that the claimant was working for the management as a temporary sweeper. It has been stated that since the year 1996, the claimant was working as a part time temporary sweeper in the guest house of the center for continuing education in the premises of IIT Roorkee. The centre for continuing education has been set up by IIT Roorkee for imparting training to outsiders from corporate sectors and organizes the training program on grant received from the said corporate organization. In order to provide accommodation to the participants, there is a guest house which is being run utilizing the self generated fund of the centre of continuing education. In order to maintain the guest house some persons are engaged purely on need basis and the persons engaged are part time temporary workers having no relationship with IIT Roorkee and its academic activities.

So far as the claimant is concerned, he was engaged as a part time sweeper in the guest house. His engagement being on need basis, it was never continuous. From 01.11.1996 to 31.05.2007, he had worked in the guest house with intermittent discontinuance. He had never worked for 240 in a calendar year nor in the pay roll of IIT Roorkee. The management of IIT Roorkee had never terminated the service of the workman. In the year 2005, the management of IIT Roorkee, in order to control the haphazard employment of adhoc workers, decided to create a central agency through which employment to adhoc posts shall be made through that agency selected through a bidding process and approved by the appropriate authority. It was decided that the adhoc engagement of skilled, semiskilled, unskilled and highly skilled persons shall be made through the said selected agency/contractor, who shall extend the benefits like Provident Fund, Health Insurance, Gratuity and Bonus etc. all the workmen concerned were duly informed to register themselves with the agency/contractor. But the claimant workman chooses not to register himself and opted not to work under the contractor and as such abandoned his work. Later on he along with some other persons approached the Hon'ble High Court of Uttarakhand at Nainital, praying for regularization of their service. Subsequently, they withdrew the writ petition and raised a dispute before the labour commissioner. The management did not agree to the demand of the claimant. Hence this reference. Management has also denied that the claimant is unemployed and entitled to reinstatement with back wages.

No separate and distinct issues were framed and the contesting claimant and respondent were called upon to adduce evidence on the issues as per the reference. The claimant had filed an application seeking a direction to the management to produce the relevant documents qua the dispute. In the application there was no description of the specific documents required to be produced from the possession of the Respondent. The only plea taken is that the documents are in possession of the Respondent. Considering the objection taken by the Respondent, this Tribunal passed the order giving liberty to the claimant to adduce secondary evidence in respect of the documents.

The claimant examined himself as WW1 and produced few documents which have been marked in a series of WW1/1 to WW1/10. These documents are the photocopies of the Identity card, Representation to the head of IIT Roorkee requesting regularization of service, internal correspondence between the head of the Guest House and the head of continuing education centre requesting sanction of Bonus to the claimant and other persons working in the guest house, the correspondence made to the claimant by the Head of the Guest House informing him that the work done by him shall hence forth be done through the Agency selected Tender process and asking him to register his name with the Agency/ Contractor to avoid discontinuance, representation alleging illegal termination, other correspondences between the Prof and Head of the Centre for Continuing Education to the Dy. Director IIT Roorkee evidencing the fact that the claimant was working in the

guest house since 1989. Besides these documents the claimant has filed photocopies of the vouchers through which he was getting payment from the centre for continued education and photocopies of the cheques for the payment.

On behalf of the Respondent, it's Asst Registrar Shri Bane Singh Meena testified as MW1 and proved the documents as MW 1/1 to MW1/3. The documents are the notification dated 9th Sept 2005, about the decision taken for out sourcing the work through the Agency, the Representation received from the claimant. Both the witnesses were cross examined at length by the adversaries.

During course of argument the learned AR for the Respondent submitted that the claimant was never an employee of IIT Roorkee and was engaged on temporary basis by the centre for continuing learning. The centre has a guest house which is being managed utilizing the Fund received from the corporate establishment for which the training program is organized. Thus there is no constant need for the workforce and the engagement of staff was owned basis only and during the time when any training program is undertaken. The management has indicated the days in the WS during which the claimant was engaged and the same was never continuous as claimed by the claimant. Thus the management argued that the burden lies with the claimant to prove that he was in continuous employment of the Management of IIT Roorkee and had worked for 240days in the calendar year preceding the date of his termination.

The counter argument of the workman is that the photocopies of the document exhibited by the workman while adducing evidence, sufficiently proves the employer employee relationship and continuous engagement since 1999. Otherwise the Respondent has admitted about non service of termination notice, which makes claimant entitled to the relief sought for.

In this proceeding the claimant has all along maintained that he was working for the Respondent IIT Roorkee in it's guest house situated in the premises. He was getting his salary at the end of the month, though calculated on daily wage basis. To support the oral evidence several vouchers (photocopies) have been placed on record and the management has not denied these documents. The letters written by the then head of the guest house to the Dy. Director having reference of the claimant has also been placed on record as Exits to prove that the claimant was the employee of IIT Roorkee. The witness examined by the Respondent has also admitted during cross examination that the claimant was working as a sweeper in the guest house during the relevant period, but his engagement was not by IIT Roorkee, but by the Centre for Continuing Learning. The claimant could not place on record the documents in support of his stand that he was under the employment of IIT Roorkee. In such a situation, the claim is to be examined from the other circumstances i.e the effective control test as has been observed in several pronouncements by the Hon'ble Apex Court including the case of **Steel Authority Of India VS National Union Waterfront Workers Union, reported in 92001) 7 SCC,1**. In the case of **Workmen of Food Corporation of India VS Food Corporation of India, AIR 1985(SC) 670**, the Apex Court pronounced that the contract of employment always discloses a relationship of command and obedience between them. When the same is proved from the evidence, relationship of employer and employee is established.

In this proceeding the claimant has stated that he was working exclusively in the Guest House as a sweeper. The ID Card, and the vouchers filed by the claimant clearly prove that he was working as a daily wage sweeper in the Guest House. The assertion of the management that the guest house of the centre for continuing education has nothing to do with the Respondent has not been disproved by the claimant. The vouchers filed by the claimant also proves that he was getting his remuneration from that centre only. Hence from the oral and documentary evidence adduced by the claimant coupled with the oral evidence of the MW 1, it is proved that the employer and employee relationship was not existing between the Respondent and the claimant during the relevant time as the Respondent was not exercising effective control and supervision over the work of the claimant during the said period.

Industrial dispute has been raised by the workman and reference has been made by the Appropriate Govt. to adjudicate if any illegality has been committed by the management in dis engaging the service of the claimant, and if so, to what benefit he is entitled to. The management has forcefully argued and led evidence to show that the claimant was not a regular employee of the Respondent. Thus there arises no question of terminating his service or refusing his reinstatement. The entire claim is based upon some misconception of facts. A document has been exhibited by the Respondent which has not been disputed by the claimant. As per this document the Respondent, in order to regulate the haphazard engagement of adhoc employees, in the year 2005, resolved to out source the skilled, semiskilled and highly skilled persons through a contractor selected through tender process. After selection of the contractor and in order to ensure that the persons working on temporary engagement are not thrown out of their job, notices were served well ahead on them. The said employees were instructed to register their names with the contractor. The witness examined by the management has stated that the decision taken in this regard was progressive as the contractor was to extend the benefits of Provident Fund, Health Insurance etc to the employees engaged. But the claimant opted out of the

said arrangement and voluntarily abandoned the engagement. Hence his claim as has been advanced is not maintainable.

The witness has also stated that the claimant was never in continuous service of the Respondent, nor had worked for 240 days in a calendar year, making it obligatory for the Respondent to comply the provisions of sec 25F of The ID Act. The claimant during cross examination has admitted that the Ext WW1/6 to WW1/10 no way proves his continuous engagement and work for 240 days in the preceding calendar year. Thus the claimant has failed to discharge this burden of proof too.

Having considered the submissions and appraisal of the record and documents filed this Tribunal is of the view that there is no dispute on facts that the claimant was not a regular employee of the Respondent, but was engaged as a sweeper on daily wage basis, though he was made to work for a long period with break, when his engagement came to an end in the year 2007. It has been admitted by the management witness MW1 that no notice pay or retrenchment compensation was paid to the claimant when his engagement was discontinued. But that does not appear to be in gross violation of the provisions of sec 25F and 25 G of the ID Act since the claimant has not succeeded in proving that he had worked for 240 days in the preceding calendar year of termination. Moreover, the evidence on record proves that the service of the claimant was not terminated, but he voluntarily stopped reporting for duty, as the decision of the management to introduce the contractor and to outsource the man power was not acceptable to him. Hence the relief of reinstatement with back wages as claimed is held not maintainable. The witness examined by the Respondent during cross examination admitted that the other persons working with the claimant in the guest house are still working in the premises of the Respondent and have been provided accommodation in the premises of the Respondent and the medical facilities has been extended to them. . He also stated that the management is ready and willing to retain the claimant for work provided he comes through the contractor who is the service providing Agency. The said service providing Agency is not a party to this proceeding. Hence no direction can be issued to the said Agency to engage the claimant for work. But it is felt proper to direct the Respondent to initiate a proposal with the said Agency to consider engagement of the claimant for work as a sweeper. Hence, ordered.

ORDER

The claim advanced by the claimant is held devoid of merit and rejected. The reference is accordingly answered. However it is kept open for the Respondent to consider the case of the claimant sympathetically and take up the matter with the service providing Agency for his engagement as a sweeper in the premises of the Respondent as has been done in respect of the persons working with the claimant in the Guest House of the Centre for Continuing Education. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 231.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कार्यपालक अभियंता, (सिविल), सीपीडब्ल्यूडी, केन्द्रीय प्रभाग -2, देहरादून, के प्रबंधतंत्र के संबद्ध नियोजकों और क्षेत्रीय अध्यक्ष, अखिल भारतीय सीपीडब्ल्यूडी, (एमआरएम) कर्मचारी संगठन, शाहदरा, दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ सं. 47/2011) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.02.2023 को प्राप्त हुआ था।

[सं. एल-42011/5/2011-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 231.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/2011) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Executive Engineer, (Civil), CPWD, Central Division -2, Dehradun, and The Zonal President, All India CPWD, (MRM) Karamchari Sangathan, Shahdra, Delhi, which was received along with soft copy of the award by the Central Government on 07.02.2023.

[No. L-42011/5/2011-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI.

Present: Smt. PRANITA MOHANTY, Presiding Officer,
C.G.I.T.-Cum-Labour
Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE No. 47/2011

Date of Passing Award- 07.02.2023.

Between:

The Zonal President,
All India CPWD, (MRM) Karamchari Sangathan,
House No. 4823, Gali No. 13, Balbir Nagar Extension,
Shahdra, Delhi.

....Claimant.

Versus

The Executive Engineer, (Civil)
CPWD, Central Division -2, 20 Subash Road,
Dehradun.

....Management

Appearances:-

Shri Satish Kumar Sharma
(A/R)
Shri Chaman Sharma
(A/R)

....For the claimant.

...For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of The Executive Engineer, (Civil) CPWD, Central Division -2, 20 Subash Road, Dehradun and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42011/5/2011- (IR(DU)) dated 25.05.2011 to this tribunal for adjudication to the following effect:

“Whether the action of the management of CPWD, Dehradun in withdrawing financial benefits of ACP to the workman, Shri Puran Chand on account of non passing of trade test, is legal and justified? What relief the workman is entitled to ?”

Being noticed the claimant appeared and filed the claim statement stating therein that he was appointed as Beldar in CPWD w.e.f 22.02.1973 and superannuated from service on 30.11.2011. At the time of superannuation, he was working as a plumber. On 01.04.1977 he was confirmed in the post of beldar which was an unskilled category of post. In 1989 he had reached the maximum pay scale allowed to Beldar which was Rs. 750-940. Thus, w.e.f 01.04.1991 he was allowed in SITU promotion in the pay scale of Rs. 800-1150. He also passed the trade test for the post of Assistant plumber in 1991. The Govt. of India pursuant to the recommendation of 5th Pay commission introduced the ACP scheme w.e.f 9.08.1999. Pursuant thereto, the claimant was allowed 1st ACP in the scale of 3050-4590 on completion of 12 years and the 2nd ACP in the pay scale of 4000-6000 on completion of 24 years from the date of initial appointment. This ACP was allowed w.e.f

9.08.1999. While the matter stood thus, suddenly by the order dated 26.08.2009 the mgt withdrew the 2nd ACP granted to the claimant and made recovery of the entire amount paid. Before doing so, no notice was served nor any opportunity was granted to the claimant to explain the circumstances. Being aggrieved he raised a dispute through the union before the Labour Commissioner and on failure of conciliation the appropriate government referred the matter for adjudication on the point if the order of the mgt withdrawing the 2nd ACP is legal and justified. The claimant has further stated that the mgt had withdrawn the 2nd ACP and recovered the benefit granted on the ground that the claimant has not passed the qualifying 2nd trade test for grant of 2nd ACP. In this regard the claimant had stated that he was initially appointed as a Beldar and promoted to the category of Asst. Plumber in the year 1991. And for such promotion he had passed the trade test of Asst. Plumber conducted by the department in Nov., 1991. As per the order of director general of works, CPWD dated 7.5.1997 the Assit. Categories of CPWD workmen merged with the main category and classified as skilled artisan and the incumbents were granted higher pay scale notionally w.e.f 01.01.1973 and arrear was paid w.e.f 01.04.1981. Thus, the Asst. category of CPWD workmen stood abolished w.e.f 1.1.1973 and the promotional scale for unskilled category automatically got converted to the scale of skilled category instead of semi-skilled category. For such conversion no 2nd trade test was required to be passed by the employee. But the mgt in an arbitrary action withdrew the 2nd ACP granted to him on the pretext that he has not passed the 2nd trade test. This action of the mgt is illegal and the claimant is entitled to relief of a 2nd ACP withdrawn from him. He has also prayed for grant of 3rd MACP w.e.f 01.09.2008.

The mgt appeared and filed written statement denying the stand taken by the workman. The contention raised by the mgt is that the proceeding is not maintainable since there exists no industrial dispute between the parties. The other contention of the mgt is that the claimant was initially appointed as a Beldar in the pay scale of unskilled category. He was conformed as Beldar as 01.04.1997 and was allowed the revision of pay as and when applicable. He attained his maximum scale for the post of Beldar and thus after stagnation was granted in SITU promotion w.e. f 01.04.1991 in the pay scale of 800-1150. Some anomalies arose with regard to grant of In SITU promotion and ACP at the same time. Thus, the CPWD directorate vide letter dated 26.09.2008 clarified that In SITU promotion to unskilled labour is admissible in the pay scale of Rs. 800-950. It was further clarified that In SITU promotion would be admissible only upto 08.08.1999 i.e the date immediately before the ACP scheme came into force. In Nov. 1991 the claimant qualified the trade test for Asst. Plumber and was granted 1st ACP. For the merger of Asst. Category with the main category he was declared plumber on 30.1.2001. The claimant was granted 1st and 2nd ACP on completion of regular service of 12 years and 24 year resp. and was placed in the pay scale of 3050-4590 and 4000-6000 respectively. This was done by the order dated 06.7.2007. Consequent upon the implementation of 6th pay commission he was placed in the pay scale of 5200-20200 w.e.f 01.01.2006 as per the option given by him. At that point of time the pay scale of 1st and 2nd ACP granted to various employees was reviewed and it was noticed that the claimant of this proceeding is not entitled to 2nd ACP in the scale of 4000-6000 on account of not qualifying the 2nd Trade test. Accordingly, the pay scale granted to him as 2nd ACP was withdrawn and the amount paid was recovered. The management has further stated that this recovery was made in view of the clarification issued by the CWPD directorate in the letter dated 20.02.2007. Thus, the management had pleaded the withdrawal of 2nd ACP is legal and justified and cannot be called in question.

On these rival pleading following issue have been framed:

1. Whether the action of the mgt CPWD, Dehradun, in withdrawing financial benefits of ACP to the workman, Shri Puran Chand on account of non-passing of trade test is legal and justified? If so its effect?
2. Whether the relationship of employee and employer exists between the mgt and the claimant if so its effect?
3. To what relief the workman is entitled to?"

The claimant Puran Chand Testified as WW1 and filed the documents and marked as Exh. WW1/1 to WW1/5. But he could not be cross examined as he died and his legal heirs were substituted. The A/R for the claimant testified as WW2 and proved all the documents earlier exht. as WW2/1 to WW2/7. One Prashant Singh the Executive Engineer testified as MW1 on behalf of the mgt and he also filed a no. of documents marked as MW1/1 to MW1/20. The witnesses was cross examined at length by the A/R for the claimant.

FINDINGS

Issue No. 2.

No dispute has been raised by the parties with regard to the employer and employee relationship and thus this issue was not pressed.

Issue No. 1.

Admitted facts are that the workman was initially appointed as a Beldar and he was made permanent in the post of Beldar on 01.04.1997. It is also not disputed that he was granted In SITU promotion w.e.f 01.04.1991 in the pay scale of 800-1150 and the actual order was passed on 18.11.1997. The said order has been filed as Exht. WW2/1. It is also not disputed that the In SITU promotion was allowed upto the time just before the introduction of ACP. The other admitted fact is that the workman had reached the maximum scale of unskilled category in the year 1990. By filing the order of the CPWD dated 7.05.1997 marked as WW2/6, the claimant has stated that the Govt. took a decision for merging Asst. category of the work charged, employees with the corresponding main category and reclassifying them as skilled workman. Thus, after such merger, all the promotions applicable to the skilled workman automatically became applicable to the semi skilled persons reclassified as skilled workers. The said order since directed that after the merger the pay scale of each worker in pre revised scale will be fixed term 01.01.1973 or on the date of merger whichever is later, the pay scale of the claimant was accordingly revised. There was no anomaly in the said pay fixation. But the mgt acted arbitrarily in withdrawing the pay scale granted to the claimant as the 2nd ACP on completion of 24 year of service. During arguments the Ld. A/R for the claimant argued that the In SITU promotion was the time bound scale granted in the next higher catre. The 1st and 2nd ACP was correctly allowed on implementation of 5th pay commission, considering the fact that during the 1st 12 and 24 years of service the claimant had not got any promotion. The grant of ACP was to compensate and give financial up-gradation to the persons who were not granted promotion during this period. The claimant was reclassified as Plumber from Asst. Plumber and the same was not at all a promotion. The mgt sought clarification from the directorate of CPWD about the eligibility of 2nd ACP in respect of the persons whose posts were reclassified from semi-skilled category to skilled category after the merger. In the said clarification which has been filed by the mgt as MW1/5, it is only contained that for grant of 2nd ACP, the incumbent shall be required to pass the 2nd trade test required for the post of promotion to Plumber/ Mason /carpenter etc. But the same is not applicable to the claimant since, he was not promoted to the post of plumber but his post was reclassified from Asst. Plumber to plumber.

This argument of the Ld. A/R for the claimant sound convincing since in the clarification dated 20.02.2007 marked as MW1/5, in clause 3, it has been clarified that the Beldars are entitled for financial up gradation under ACP Scheme. The 1st ACP in the scale of Rs. 3050-4590 shall be paid on passing of trade test required for promotion from Beldar to plumber. It has also been stated that the 2nd ACP in the scale of work Asst. i.e in the scale of 4000-6000 shall be granted to him and the trade test required to be passed is the same as required for promotion from Plumber / Mason / Carpenter et. This clarification order nowhere prescribes that for grant of 2nd ACP a 2nd Trade test is required to be passed by the employee who has not been promoted to the post of plumber, but his post was upgraded for the merger.

The contention of the mgt that for not qualifying the trade test the workman is not entitled to 2nd ACP is found not based upon record though the witness examined on behalf of the mgt stated that for grant of 1st and 2nd ACP the workman had to qualify two skill tests and the claimant since could not qualify the 2nd skill test, the 2nd ACP was rightly withdrawn. This statement of witness stands contrary to the documents filed by the mgt. The documents filed clearly show that there was no requirement for the 2nd skill test for grant of 2nd ACP to persons whose posts were upgraded. Thus, it is held that the decision of the mgt for withdrawing the 2nd ACP granted to the claimant is illegal. This issue is accordingly answered in favour of the claimant.

ISSUE NO. 3.

In view of the finding arrived while deciding the issue no. 2 it is held that the claimant is entitled to the 2nd ACP from the date the same was allowed to him and the amount recovered shall be refunded to him. Not only that his pay shall be refixed from the date of withdrawal taking into consideration the 2nd ACP withdrawn and his salary and all other retiral benefit shall be calculated accordingly. Hence ordered

ORDER

The claim be and the same is answered in favour of the workman. It is directed that the mgt shall re-fix the salary of the workman on the date of withdrawal of 2nd ACP after applying the same to his pay scale and accordingly grant him pay for the remaining years of his service and the retiral benefits . The amount recovered from the claimant shall be refunded to the LRs of the claimant within 2 months from the date of publication of award with a minimal interest of 4 % p.a , failing which the amount shall carry interest @ of 6 % from the date of withdrawal and till the final payment is made. The mgt is further directed to work out the pay fixation and retiral benefits to the claimant within 3 months from the date of publication of the award.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 232.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, राष्ट्रीय प्रौद्योगिकी संस्थान (एनआईटी), पौड़ी गढ़वाल, उत्तराखण्ड; निदेशक, साइबेक्स सपोर्ट सर्विसेज प्राइवेट लिमिटेड, लाजपत नगर-IV, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्रीमती सीमा कोटियाल और 26 अन्य कामगार, द्वारा श्री गोविंद सिंह बिष्ट, प्रदेश प्रतिनिधि, भारतीय मजदूर संघ, देहरादून, उत्तराखण्ड, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली के पंचाट (संदर्भ सं. 254/2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 14.02.2023 को प्राप्त हुआ था।

[सं. एल-42025/07/2023-64-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 232.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 254/2019) of the Central Government Industrial Tribunal cum Labour Court - II New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Director, National Institute of Technology (NIT), Pauri Garhwal, Uttarakhand ; The Director, Sybex Support Services Pvt Ltd., Lajpat Nagar-IV, New Delhi, and Smt. Seema Kotiyal & 26 Ors. Worker.Through-Shri Govind Singh Bisht, State Representative, Bhartiya Mazdoor Sangh, Dehradun, Uttarakhand, Worker, which was received along with soft copy of the award by the Central Government on 14.02.2023.

[No. L-42025/07/2023-64-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-II, NEW DELHI****Present:** Smt. PRANITA MOHANTY**ID. No. 254/2019**

Smt. Seema Kotiyal & 26 Ors.
Through-Sh. Govind Singh Bisht,
State Representative, Bhartiya Mazdoor Sangh,
61, Kanwali Road, Dehradun, Uttarakhand -248001.

... claimants

Versus

1. The Director, National Institute of Technology (NIT), Sri Nagar, Pauri Garhwal, Uttarakhand-246174.
2. The Director, Sybex Support Services Pvt Ltd. A-39, Basement Daryaganj, Lajpat Nagar-IV, New Delhi-110024.

... Managements.

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. D-813/A/2019/02/IRDDN: dated 15.11.2019 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

“Whether the act of terminating the services of Smt. Seema Kotiyal and 26 other workmen, engaged by M/s Sybex Support Services Pvt. Ltd., New Delhi for performing multi purpose jobs in the Estb. Of M/s National Institute of technology (NIT), Sir Nagar, Pauri Garhwal (UK) -246174 is legal, fair and justified?”

Whether those 27 workmen are entitled for regularization / reinstatement of their service in the said Estb.? If not what relief /remedies, the concerned workmen are entitled to ?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within

15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on her behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in her appearance nor has she led any evidence so as to prove her cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

dated: 2nd Jan, 21023.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली, 16 फरवरी, 2023

का.आ. 233.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नंबर 1, चंडीगढ़ के पंचाट (संदर्भ सं. 11/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2023 को प्राप्त हुआ था।

[सं. एल-23012/51/2018-आई.आर (सी.एम -II)]

राजेन्द्र सिंह, अवर सचिव

New Delhi, the 16th February, 2023

S.O. 233.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2019) of the Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of BBMB and their workmen, received by the Central Government on 14/01/2023

[No. L-23012/51/2018—IR (CM-II)]

RAJENDER SINGH, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Present: Sh. J.K. Tripathi, Presiding Officer

ID No. 11/2019

Registered on:-06.05.2019

Sh. Hari Ram S/o Shri Sant Ram R/o Village-Nagron,
Po-Jhanduta, Tehsil Ghumarwin, Distt. Bilaspur (HP)-174001

....Workman

Versus

1. The Chairman, Bhakra Beas Management Board,
Madhya Marg, Sector 19-B, Chandigarh-160019.

2. The Chief Engineer, Bhakra Beas Management Board,
BSL Project, Sundernagar-175002. Respondents/Managements

AWARD

Passed On:- 26.10.2022

Central Government vide Notification No.L-23012/51/2018-IR(CM-II) dated 23.04.2019, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of BBMB in not accepting the demand of Sh. Hari Ram S/o Sh. Sant Ram for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?”

1. The Ministry of Labour & Employment, Government of India while referring the above Industrial Dispute for adjudication also directed the following:-

“The parties raising the dispute shall file a statement of claim complete within relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference and also forward a copy of such a statement to each of the opposite parties involved in this dispute under rule 10(B) of the Industrial dispute (Central), Rules, 1957”.

2. However, no claim statement was filed by the workman within the stipulated period. Despite the directions of the Central Government not complied by the workman opportunity was provided to the workman and, therefore, on receipt of the above reference notice was sent to the workman as well as to the respondents/managements for appearances for adjudication. The postal article sent to the workman, referred above, is deemed to have been served on the parties under dispute as the post sent has not been received back as undelivered.

3. Workman has been given sufficient opportunities to file claim statement but none turned up in spite of several opportunities afforded to file claim statement. This shows that the workman is not interested in adjudication of the matter on merit.

4. Since the workman has neither put his appearance nor he has filed statement of claim to prove his cause against the respondents/managements. As such this Tribunal is left with no alternative except to pass a ‘No Claim Award’. Accordingly, ‘No Claim Award’ is passed in the instant reference ID No.11/2019.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

J. K. TRIPATHI, Presiding Officer

नई दिल्ली, 17 फरवरी, 2023

का.आ. 234.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयुक्त, पूर्वी दिल्ली नगर निगम, पटपडगंज औद्योगिक क्षेत्र, दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री आबिद रजा जैदी, द्वारा महासचिव, एमसीडी जनरल मजदूर यूनियन, शाहजहाँ रोड, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली के पंचाट (संदर्भ सं. 131/2018) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2023 को प्राप्त हुआ था।

[सं. एल-42011/178/2017-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 234.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 131/2018) of the Central Government Industrial Tribunal cum Labour Court - I New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to The Commissioner, East Delhi Municipal Corporation, Patparganj Industrial Area, Delhi, and Shri Abid Raza Zaidi, Worker, Through The General Secretary, MCD General Mazdoor Union, Shahjahan Road, New Delhi, which was received along with soft copy of the award by the Central Government on 17.01.2023.

[No. L-42011/178/2017-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT-I, DELHI ROOM NO.207, ROUSE AVENUE COURT COMPLEX, NEW DELHI.

Present: Justice VIKAS KUNVAR SRIVASTAVA (Retd.) Presiding officer
CGIT, Delhi-I

(In ID. No. 131/2018)

Sh. Abid Raza Zaidi S/o Late Zafar Ahmed Zaidi
Through
The General Secretary,
MCD General Mazdoor Union
Room No. 95, Barrack No.1/10,
Jam Nagar House,
Shahjahan Road, New Delhi
New Delhi-110001

... Claimant (Workman)

Versus

East Delhi Municipal Corporation
Through its Commissioner,
Udhyog Sadan,
Plot No. 419, Patparganj Industrial Area,
Delhi-110092

... Management (Opposite party)

Shri B.K. Prasad, A/R for the claimant (Applicant).
Shri Anil Mishra, A/R for the management (Opposite party).

AWARD

1. The Central Government vide its letter No. L-42011/178/2017-ID (DU) Dated 22/02/2018 opined that an Industrial Dispute exists between the employer and their workman and referred the said dispute for adjudication to the Central Government Industrial Tribunal Cum Labour Court Delhi -I, (which shall herein after be called is the Tribunal only) exercising the powers conferred by clause (D) of subsection (1) and subsection (2A) of section 10 of the Industrial Dispute Act, 1947 (which shall herein after be called as 'The ID Act' only).

The reference is, "*Whether Sh. Abid Raza Zaidi was allotted the duty of chaudhary by the management w.e.f 01.01.1990 till his retirement i.e. 31.07.2015? If yes, whether Sh. Abid Raza Zaidi is entitled to the wages of Chaudhary w.e.f 01.01.1990 revised from time to time?*"

Receiving the said reference, Tribunal ordered to register the same as Industrial Dispute Case pursuant to which the present I.D. Case No. 131/2018, titled as Sh. Abid Raza Zaidi through The General Secretary, M.C.D General Mazdoor Union V. East Delhi Municipal Corporation through its commissioner was placed before the tribunal on 27.03.2018. The claimant workman filed the statement of claim and made his appearance

through his authorized representative Sh. B.K. Prasad. Notice issued to the opposite party fixing 22.05.2018 for filing of written statement. On 22.05.2018, very promptly the opposite party East Delhi Municipal Corporation put it's appearance before the Tribunal through Sh. 'Rajesh' the dealing officer and filed the written statement. Consequently, 11.06.2018 was fixed to file rejoinder by the claimant and also for framing of the issues.

2. The facts of the Industrial Dispute as emerges out from the statement of claim and the written statement in defence as well as the material produced before and taken on record by the tribunal are being briefly stated that the claimant initially appointed on the post of 'Mali' on 01.04.1988. It's alleged by the claimant but denied by the opposite party that he was performing duties of "acting chaudhary" w.e.f. 01.01.1990 till the date of his retirement i.e. 31.07.2015; under the order of competent officer of Horticulture Department of the opposite party. Allegedly in proof of his performing the duties of Chaudhary Since 01.01.1990 the claimant placed in evidence Annexure A photo copy of a list of the malis, wherein the name of the claimant appearing at serial no. 2 as one of them who were looking after the work of Chaudhary w.e.f. 01.11.1990. The claimant as witness has produced himself to prove the Annexure 'A' before the tribunal. In oral examination, an identity card allegedly issued by the department as well the list Annexure A and a no dues certificate issued to him after his retirement on vacating the official quarter stating him Garden Chaudhary is placed in evidence. The claimant asserts himself entitled to the wages of Chaudhary in the pay scale of Rs. 3050-4590 w.e.f. 01.10.1990 upto the date of his retirement on 31.07.2015.

3. Against the case of the claimant the opposite party pleaded that the post of Garden Chaudhary is promotion post to be filled up by selection through Trade Test Conducted by the department from time to time amongst the 'Malis' having required qualification of High School with 'Agriculture' subject. The claimant who was initially appointed as Mali and regularized on 01.04.1988 as Mali, had no eligibly required for Garden Chadhary of High School with Agriculture subject. He had also not appeared in Trade Test conducted by the department and has never been entrusted with given duty of Garden Chaudhary by the competent officer of the department. The management opposite party has also taken preliminary objection as to the maintainability of the claim statement on the ground that he alleges him working as Garden Chaudhary since 01.01.1990 but raised the claim after his retirement in the year 2017 with a lapse of considerable long time of more than 24 years. The management had firmly denied the claim of the workman to have performed the duties of Garden Chaudhary at any point of time w.e.f 01.11.1990 till the date of his retirement on 31.07.2015, under the order of any competent officer of the management. It is also denied that the management has adopted the unfair labour practice in the matter of the workmen.

- The claimant has anchored his case of working and discharging the duties of a higher post than the post of Mali (where upon he initially had appointment and regularized) i.e. the post of Garden Chaudhary from 01.01.1990 till the date of his retirement 31.07.2015. He has pleaded to this effect the facts and evidence in Para '6' of the statement of claim, which is reproduced below:

Para 6:- *That copy of the work issued to the workman in which his name is appearing at Sl. No. 2 in which the date of looking after the work of Chaudhary is metioned as 1990 which proves that Abid Raza Zaidi was working as Acting Chaudhary w.e.f. 01.01.1990 so he is entitled to get the payment of Chaudhary from the said date. Copy of the said work order admitted by the Officer of the management in **Ram Kishan S/o Late Likhi Ram** is annexed herewith and marked as **Annexure – A** which proves that the workman has been performing his duty as Garden Chaudhary w.e.f 01.10.1990 so he is entitled the wages of Chaudhary in the pay scale of Rs.3050-4590/- up to the date of his retirement i.e. 31.07.2015 revised from time to time alongwith all consequential benefits.*

- The annexure 'A' to the claim statement is the only evidence of the claimant workman's working on higher post of Garden Chaudhary as pleaded above in Para 6 and the same is said to be the copy of work order which is admitted by the officer of the management **Ram Kishan S/o Late Likhi Ram** which proves the claimant's working as such from 01.01.1990 to the date of his retirement on 31.07.2015. No other document in support of this pleaded fact than the Annexure A is produced and proved in his evidence before the tribunal.

- It is not pleaded in the statement of claim of the claimant whether he had moved any representation before the competent authoring of the East Delhi Municipal Corporation with regard to the alleged inaction on their part as not paying the wages of Garden Chaudhary at any point of time when he was allegedly discharging the duties of the higher post of Garden Chaudhary in the period commencing from 01.01.1990 till the date of his retirement on 31.07.2015.

- It is worth to be gathered from the document captioned as 'Report of failure of conciliation' marked as Annexure 'B' to the statement of claim, that the claimant (workman) has referred through union a dispute as to the inaction on the part of management of East Delhi Municipal Corporation in not paying him the payscale of the post of Garden Chaudhary w.e.f 01.01.1990 through a representation Dated 14.05.2016. Admittedly the workman was retired on 31.07.2015. The **Annex 'B'** annexed with statement of claim thus itself shows that the claimant had not raised the dispute prior to his retirement when he was in service and alleged to had performing

the work of a higher post of Garden Chaudhary than the post of Mali w.e.f. 01.01.1990. The date of representation moved before the Conciliation officer is undoubtedly subsequent to the date of superannuation which indicates that the dispute was actually raised after the retirement of the workman.

- If the workman as he alleges was working and performing duties on a higher post than the post which he originally had by virtue of his initial appointment and regularization w.e.f 01.01.1990 till the date of his superannuation on 31.07.2015 but not paid the difference of salaries of the two post at any point of time, this is peculiar and surprising that why he never felt aggrieved of such inaction on the part of management. If he raises the issue of non payment of wages in pay scale of Garden Chaudhary during the aforesaid period after his retirement he has strict burden of proof to prove by direct evidence with regard to his being entrusted with duty of Garden Chaudhary from 01.01.1990 and continued as such till the date of his retirement.

- Importantly to note, it is undisputed that the workman claimant who was initially appointed as Mali and regularized as such had never been appointed on the post of Garden Chaudhary by the competent authority. This is also note Worthy that the claimant has also not claimed his promotion or regularization on the post of Garden Chaudhary. Admittedly, the claimant had no eligibility and qualification prescribed for such appointment by way of promotion from his original post of Mali/ Chokidar.

- The opposite party management by filing written statement of defence has denied the alleged working and performing the duties of the higher post of Garden Chaudhary at any point of time during his service tenure having been appointed/ regularized and posted as Mali Para 2,3,4 & 3-5 are reproduced from the written statement here below:-

- 2:- *That claimant has not procedure any valid documents with support of their claim as he claiming status of Mali w.e.f. 01.04.1990 claimant need to put strict proof with support of his claim.*
- 3:- *That the workman has never performed the duties of Garden Chaudhary and management was never assigning him task as per the post of Chaudhary. No such type of Office Order was issued by the competent authority.*
- 4:- *That the claimant of this instant claim was regularized on the post of Mali on 01.04.1988. So, present claimant cannot claim for benefits as per promotional post of Chaudhary w.e.f. 01.04.1990 as he never performed work of Chaudhary with the management as alleged in claim. Further, it is submitted that present claimant was not passed Trade Test in any conducted trade test by the Deptt., which is must required for the post of Garden Chaudhary.*
- 3-5:- *That the contents of Para No. 3 to 5 of the claim are wrong and denied. It is denied that the claimant was allotted the work of Garden Chaudhary w.e.f 01.04.1990. The claimant need put to produce strict proof in this regard. No Office Order from any competent authority/appointing authority has ever been passed in this regard. It is denied that the action of the management amounts to unfair labour practice as alleged. That the contents of Para No. 6&7 of the claim are wrong and denied. It is denied that the claimant is regularized on the post of Chowkidar and receiving remuneration for the same post and accordingly to revised pay scale from time to time. Further, it is stated that the workman has never performed the duties of Garden Chaudhary so no question arises for the pay scale of the Garden Chaudhary. It is denied that the action of the management amounts to unfair labour practice as alleged. Kindly read the paras of preliminary objection which is not repeated here for the sake of brevity.*

- After the written statement of defence is filed by the management specifically denying the claim of the workman as to his performing the work as Garden Chaudhary, the claimant did not opt to accept the offer of the court, to file any rejoinder thereto, He denied to file any rejoinder as recorded in the order of the tribunal dated 25.03.2019. The issues were framed. The claim of the workman having been specifically denied and the documents including Annexure 'A' not admitted he had strict burden of proof to prove the fact of his working on the post of Garden Chaudhary a higher post than his original post of Mali/ Chokidar during the period commencing from 01.01.1990 to 31.07.2015 for a continues period of more than 25 years. The only papers alleaged to be a document in evidence to prove the fact, the workman had worked and performed the duties of the post of Garden Chaudhary is Annexure 'A' to the statement of claim. The said papers Annexure 'A' is blurred photocopy of an unknown original document, undated and without identification of the office and officers who prepared the same under an official authority and who may be termed as 'custodia legis' of the document. It is tried to be proved in evidence by claimant's oral examination recorded by the tribunal. Claimant is the only witness to prove the Annexure 'A' which is said to be a list of those Mali's who were entrusted with the duties of 'Chaudhary'. Who and when prepared this list for which period is neither pleaded in the claim statement nor in affidavit as statement of examination in chief before tribunal is deposed. To prove the document neither the officer if any under whose signature

it is issued is produced in evidence nor the person/officer who may recognize and identify the signature of the signatory is produced. The Annexure 'A' is not admitted by the management in their pleading the burden is not discharged by the claimant to prove the same. The said document is therefore unreliable and unworthy of credence for the tribunal.

- The Annexure 'A' (List) is neither issued as extract of any register maintained and preserved by the shown official in office having authority to do so in the ordinary course of official routine nor compared with the original and verified under his signature. In these situations the Annexure 'A' cannot be said to have been proved by the claimant in evidence nor can be said to have liberty from being proved for want of admission on the part of the opposite party. Even the said Annexure 'A' does not assume the character of documentary evidence worth to be taken into reliance by the tribunal.

- Another paper is an 'Identity Card' which had not been made Annexure to the statement of claim dated 27.08.2018 and could not be placed before the issues were framed on 25.03.2019. Even there is no pleading about the said Identity Card in the statement of claim, but placed in evidence making Annexure to the affidavit of the claimant filed as the statement in examination in chief in evidence dated 22nd June 2018, much prior to the filing of the statement of claim before the tribunal.

- The Identity Card which is photostate copy has no endorsement of date of its issuance. There is no signature of the issuing authority. Before making Annexure to the affidavit the same is not compared with original and verified. No management witness was confronted with the said Identity Card whether the same is genuine. Even the workman had not proved by producing the original before the court in verification of the genuineness of the Identity Card. In the situation the Identity Card shall also may not be termed as documentary evidence worthy of credence and reliance in proof of the claim of the workman.

- Lastly when admittedly the workman had never been appointed as Garden Chaudhary, he can not be supposed to have issued Identity Card in his favour addressing his post as Garden Chaudhary.

- One more papers though not pleaded and filed as Annexure to the claim statement but filed with the affidavit of claimant workman in statement of chief dated 22.06.2018 is 'No Dues Letter' issued on 17.03.2016. This papers had also not been compared with original placing before the tribunal in verification of the same before the tribunal on 19.07.2019.

Though the said document can not be said ingenuine but it has no bearing on the issue of workman's working on the post of Garden Chaudhary. The administrative officer Swami Dayanand Hospital who issued the letter after the date of superannuation dated 31.07.2015 is not produced as witness by the workman. The workman has not prayed to summon him as witness to enquire on what basis he addressed the workman in the 'No due Latter' dated 17.03.2016 issued by him. Even the witness of the management is not confronted with the said Annexure of the workman's affidavit. More over the No Dues Letter is in the specific context of vacating the house allotted to the workman in the course of his service tenure in the establishment either as Mali or otherwise, can not assume the probative force of certificate of appointment or posting a Garden Chaudhary.

- Lastly, in pleading or evidence adduced by the workman no where it is described that in what respect the duties of Mali, Chokidar and Garden Chaudhary are of different nature then also he was being discriminated illegally in not paying the pay scale of Garden Chaudhary to almost 25 years though he had worked and performed the duties of Garden Chaudhary throughout. Even it is not pleaded that amongst the malis stated in the alleged list Annexure 'A' who are given the higher pay scale leaving him alone deprived of the benefits.

- The vehemence in pleading and argument is put on the right of parity with the beneficiaries respondent of the W.P.((C) No. 7947 of 2010) **M.C.D V. Sultan Singh and others** decided on 20th April 2011 in favour of respondents. The case of the respondent (Workman of M.C.D) was that (Para 3 of the Sultan Singh Case).

"they had joined as Malies Chowkidars and were regularized with effect from different dates which were detailed by the respondents in their petition. The respondents also disclosed the dates and particulars since when they had been performing the duties and responsibilities of Garden Chaudhary pursuant to directions by their superior officers. The respondents contended that the petitioners admitted that the respondents were performing the duties and responsibilities of Garden Chaudhary in the list sent by the petitioner to its horticulture department dated 23rd January 2003 by the central zone. The respondents also relied on a list dated 10th August, 2004 disclosing the particulars of the Malies/ Chowkidars who had been working as Garden Chaudhary in south zone and another list dated 6th January, 2004 of west zone."

- In the said writ petition, the petitioner MCD had challenged.

1. "The order dated 29th January 2010 passed by Central Administrative Tribunal, Principal Bench, New Delhi in T.A No. 1317 2009 titled "Sh. Sultan Singh & Ors V. MCD" directing the petitioner to examine the

claim of the respondents on the basis of the evidence produced before the Tribunal and thereafter process the payment of difference of pay of the post held and duties discharged by the respondents on the higher post of Garden Chaudhary if the claim of the respondents is found to be genuine and order dated 7th October 2010 in review application No. 270/2010 dismissing the review application.

2. *Brief facts to comprehend the disputes are that the respondents filed a writ petition being W.P(C) No. 10158-86/2005 praying for a direction to pay difference of wages of Malies/ Chowkidars and that of Garden Chaudhary from the date the respondents have been performing the duties and responsibilities of Garden Chaudhary.*

- The writ petition was dismissed and order of the tribunal dated 29th January 2010 and 7th October 2010 were held not illegal, perverse or unsustainable.

- Unlike the workmen respondent, in the case of **MCD V. Sultan Singh & others** the case of the sole claimant in the present I.D. Case is not filed as to any existing claim but filed before the Central Government Industrial Tribunal after his retirement. The dispute in the claim statement or earlier also before the conciliation officer through representations is not raised or during the service tenure in the establishment of the management.

- The workman in the present I.D. Case though allegedly had got cause of action in the year 1990 when he was not paid difference of salary through allegedly performing the duties of Garden Chaudhary did not joined the writ petition No. W.P(C) 10158.86/2005 with equally circumstanced workmen while he was in service.

- In the case of **MCD V. Sultan Singh & Others** the MCD had sent list of Malis performing the duties and responsibly of Garden Chaudhary to it's department of Horticulture dated 23th January 2003 thus there was an admission of their status and performance of duties & responsibility on higher post. In the present case the claimant workman had not pleaded and proved any such list to be treated as admission in evidence.

- The workmen in **MCD V. Sultan Singh & others** had sent a legal notice date 23rd February 2005 when they were in service to the department claiming equal pay for equal work, on failure of MCD to pay difference of wages. In the present case any such claim is not raised by the workman during his service tenure.

- Unlike the case of **MCD V. Sultan Singh & Others** the list of workmen with complete particular and the date since when they were working and discharging duties and responsibilities of Garden Chaudhary is not prepared duly signed and verified by any Identified official and approved by the competent officers.

- The workmen in the present case has not been successful in proving the fact of his working as Garden Chaudhary since 01.01.1990 to 31.07.2015 by reliable, credible and acceptable evidence.

- Learned AR for the claimant submitted that the claimant workman is similarly situated with the other workmen. Who, Where given benefit of pay scale of Garden Chaudhary in lieu of their working as Garden Chaudhary originally having being posted as Mali. They were not duly appointed by promotion on the post of Garden Chaudhary. In his claim statement the claimant has not given details and description of such workmen with whom he is claiming similarity in status but not being paid in the pay scale of Garden Chaudhary like there.

- The Apex Court in **Grih Kalyan Kendra Worker's Union V. Union of India and others JT 1991 (1 SC 60)**.

"the question of parity in pay scale cannot be determined by applying mathematical formula. It depends upon several factors namely nature of work, performance of duties, qualifications, the quality of work performed by them. It is also permissible to have classification in services based on hierarchy of posts, pay scale, value of work and responsibility and experience. The classification must, however, have a reasonable relation to the object sought to be achieved."

- In **The Secretary, Finance Department and Ors. V. West Bengal Registration Service Association and Ors. JT 1992 (2) SC 27**, the Apex Court observed:-

"job valuation is both a difficult and time consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different groups of employees. The factors which may have to be kept in view for job evaluation may include (i) the work programme of his department (ii) the nature of contribution expected of him (iii) the extent of his responsibility and accountability in the discharge of his divers duties and functions (iv) the extent and nature of freedoms/ limitations available or imposed on him in the discharge of his duties (v) the extent of powers vested in hi (vi) the extent of his dependence on superiors for the exercise of his powers (vii) the need to coordinate with other

departments etc. It was further observed that normally a pay structure is evolved keeping in mind several factors e.g. (i) method of recruitment, (ii) level at which recruitment is made, (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required, (v) avenues of promotion (vi) the nature of duties and responsibilities, (vii) the horizontal and vertical relativities with similar jobs, (viii) public dealings, (ix) satisfaction level, (x) employer's capacity to pay, Etc.

- It is therefore as seen in the aforesaid judgment of the Apex Court and the Hon'ble High Court judicature of Allahabad simply by saying that the workman claimant was working since 01.01.1990 on higher post of Garden Chaudhary till the date of his retirement on 31.07.2015 though throughout the aforesaid period he has been on the post of Mali/ Chokidar is not sufficient to allow his claim of payment of deference of the two pay scales i.e. that of the Mali and the Garden Chaudhary it is admitted by him that he had no educational qualification as per the eligibility criteria for selection on the post of Garden Chaudhary he has not pleaded the responsibility and duty of the Garden Chaudhary with which he was entrusted. There has been no evidence of raising the dispute on his part during his service tenure from 01.01.1990 to 31.07.2015 with regard to the inaction on the part of opposite party the management of establishment in not paying him the salary in the pay scale of Garden Chaudhary. The management in his reply and evidence on affidavit has asserted that the workman claimant has always been working on the post of Mali and was throughout the service tenure paid the salary of Mali only has no work of Chaudhary was entrusted to him. This fact as elaged by the management has not been rebuted by way of rejoinder to the reply and counter affidavit even no evidence of taking work of Garden Chaudhary from him is given before the tribunal.

In Federation of All India Customs and Central Excise Stenographers and Ors. V. Union of India (1988) 3 SCC 91, it was held:-

Para 7:- *"there may be qualitative difference as regards reliability and responsibility justifying different pay scale. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made bonafide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination".*

Para 11:- It was further observed that in **Para-11** of the judgment by the Apex Court that:-

"the same amount of physical work may entail different quality of work, some more sensitive, some requiring more tact, some less, it varies from nature and culture of employment"

Thus, in the absence of required pleading as to the quality and quantity of work the extent of his responsibility and accountability, the nature of contribution expected by him the extent of power vested in him the gravity and extent of duties and functions the tribunal will not be a linker with his claim as to the payment of salary in pay scale of the post of Garden Chaudhary.

Though delay and latches orinarily is immaterial for reference of any dispute by the appropriate government to the Industrial Tribunal as the Industrial Dispute Act 1947 does not envisage any such limitation by an extra ordinary delay of raising the dispute after the date of retirement by the claimant workman almost more than 25 years later from the date when the cause of action first arisen allegedly on 01.01.1990 the same is not entertainable at this stage by the tribunal. Emphasis laid down by the learned AR for the management in support of his contention to the above effect on the judgment of Apex Court in **Nedungadi Bank Ltd V. K.P.Madhavan Kutty and Others 2000 (2) SC 455** that even though no limitation is prescribe Under Section 10 of ID Act. The dispute may be held stale claim **Para – 6** of the aforesaid judgment as relied on the management is coated here below:-

"Law does not prescribe any time limit for the appropriate government to exercise its powers under Section 10 of the Act, it is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject matter of reference Under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final it appears to us to be rather incongruous that the reference be made Under Section 10 of the Act in the circumstances like the present one."

Further reliance is placed on **Haryana State Coop. Land Development Bank V. Neelam Reported in (2005) 5 SC 91**. “it is held that the conduct of the respondent in approaching the labour court after more than 7 years was likely considered a relevant factor for refusing the relief”. In the present case also the conduct of the claimant as gathered from the facts pleaded by him in his claim statement and evidence adduced and produced before the tribunal is sufficient to infer the claim baseless and stale, not to be entertained by the tribunal.

On the above discussion the claim of the workmen Sh. Abid Raza Zaidi deserves to be rejected and reference is answered in aforesaid terms.

ORDER

The claim is rejected. An award is, accordingly passed. It be sent to the appropriate Government of Publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 17 फरवरी, 2023

का.आ. 235.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानगर टेलीफोन निगम लिमिटेड, मुंबई, के प्रबंधन के संबद्ध नियोजकों और एमटीएनएल यूनियन एंड एसोसिएशन, मुंबई, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 मुंबई के पंचाट (संदर्भ सं. CGIT-1/22 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2023 को प्राप्त हुआ था।

[सं. एल-40011/17/2019-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 235.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-1/22 of 2019) of the Central Government Industrial Tribunal cum Labour Court - I Mumbai as shown in the Annexure, in the Industrial dispute between the employers in relation to Mahanagar Telephone Nigam Ltd., Mumbai, and MTNL Unions and Association, Mumbai, which was received along with soft copy of the award by the Central Government on 17.01.2023.

[No. L-40011/17/2019-IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

Present : Smt. PRANITA MOHANTY, Presiding Officer

REFERENCE NO.CGIT-1/22 of 2019

Parties: Employers in relation to the management of
Mahanagar Telephone Nigam Ltd
And
Their workmen

Appearances:

For the first party Management	:	Mr.V.Narayanan, Adv.
For the second party Union	:	None present.
State	:	Maharashtra

Mumbai, dated the 20th day of July, 2022

AWARD

1. The present reference has been made by the Central Government by its order dated 23.8.2019 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act 1947. The terms of reference as per the schedule to the said order are as under:

“Whether the demand of United Forum of MTNL Unions and association, Mumbai for extending the benefits of medical facilities under CGHS to all working as well as retired employees of lines with BSNL, is fair, legal and justified? If so, what relief these employees are entitled to”.

2. The matter stands posted today for filing of claim statement. Claimants second party found absent on repeated call. AR for the management insisted that the matter is old and the claimants has lost interest which is evident from the fact that they are not attending the Tribunal prior to the out break of Covid. Perusal of the record shows that the representative of the claimant Union had last appeared in January 2020. After that the functioning of the Tribunal came to a halt on account of the outbreak of Covid. After the Tribunal resumed its physical work on 22.2.2021, notice was issued to the claimant Union by registered post AD. It seems that the notice was duly received by the claimant Union. Even after that the claimants are not appearing to file the claim statement.

3. Considering the fact that the litigation is pending since 2019, and the claimant is not taking interest, the reference is answered against the claimant as no claim is filed. The dispute is answered decided and disposed of.

4. Record be consigned and the appropriate government may be intimated accordingly.

PRANITA MOHNATY, Presiding Officer

नई दिल्ली, 17 फरवरी, 2023

का.आ. 236.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विक्रम साराभाई अंतरिक्ष केंद्र, भारत सरकार, अंतरिक्ष विभाग, थुंबा, इसरो पोस्ट, त्रिवेंद्रम, के प्रबंधन के संबद्ध नियोजकों और इसरो कैजुअल वर्कर्स यूनियन, किझाक्के बंगलो, नेदुमंगड, त्रिवेंद्रम, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-एर्नाकुलम के पंचाट (संदर्भ सं. 14/2014) को जैसा कि अनुलग्नक में दिखाया गया है, को प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.01.2023 को प्राप्त हुआ था।

[सं. एल-42011/05/2014-आईआर (डीयू)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 17th February, 2023

S.O. 236.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/2014) of the Central Government Industrial Tribunal cum Labour Court - Ernakulam as shown in the Annexure, in the Industrial dispute between the employers in relation to Vikram Sarabhai Space Centre, Government of India, Department of space, Thumba, ISRO Post, Trivandrum, and ISRO Casual Workers Union, Kizhakke banglow, Nedumangad, Trivandrum, which was received along with soft copy of the award by the Central Government on 17.01.2023.

[No. L-42011/05/2014 -IR (DU)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM—LABOUR COURT,
ERNAKULAM**

Present: Shri. V. VIJAYA KUMAR, B. Sc, LLM, Presiding Officer

(Tuesday the 31st day of May, 2022, 10 Jyaistha 1944)

ID No. 14/2014

Workman/Union : The General Secretary
ISRO Casual Workers Union
Kizhakkebanglow
Nedumangad
Trivandrum - 695541

By Adv. Thomas Abraham

Management : The Director
Vikram Sarabhai Space Centre
Government of India
Department of space
Thumba, ISRO Post
Trivandrum - 695022

By Adv. K.M. Abdul Majeed

This case coming up for final hearing on 21.01.2020 and 05.03.2020 and this Industrial Tribunal-cum-Labour Court on 31.05.2022 passed the following.

AWARD

1. In exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (Act 14 of 1947) the Government of India, Ministry of Labour by its order No. L-42011/05/2014 - IR(DU) dated 07.03.2014 referred the following dispute for adjudication by this Tribunal.

2. The dispute referred is;

“Whether the demand of the union ‘extending the benefits of the ‘gang labourers (employment for sporadic type of work) scheme of Dept of Space, Govt of India 2012 granted to the gang labourers in Mahendragiri and LPSC, to similarly placed 11 gang labourers working in MVI, Valiamala’ is justified or not? If yes, what relief they are entitled to ?”

3. The claim is raised by the Union for and on behalf of 11 casual workers engaged by the Management. The 11 persons represented by the Union have been working at MVIT of Vikram Sarabhai Space Centre(VSSC), Valiamala for the last several years. They are casual labourers and the Management is using the nomenclature ‘gang labourers’ while referring to the workmen. The Management claims that the causal workers and similar gang labourers are engaged for performing manual, sporadic types of works. Apart from the workmen there are 52 gang labourers working with the Management, 33 persons working in Mahendragiri and 19 persons with Liquid Propulsion System Centre (LPSC) at Valiamala itself along with the above 11 casual labourers. The causal labourers had been trying to get their services regularized with the Management. The Management formulated a scheme for the 52 causal workers working at Mahendragiri and at Valiamala. The 11 casual labourers represented by the Union had been working at Vikram Sarabhai Space Centre (VSSC) at Valiamala for much longer period compared to the 52 workers. The scheme formulated by the Management is pursuant to the directions issued by the Central Administrative Tribunal, Madras Bench as well as the Hon'ble High Court of Madras and also the Hon'ble Supreme Court of India. The scheme is not extended to the 11 casual workers engaged by MVIT, Valiamala, another unit of the Management. The denial of the benefits of the scheme of Department of Space, Govt of India 2012 to the workmen amounts to violation of the mandates of Article 14 of the Constitution which guarantees equal treatment to all similarly placed citizens. Since the Management failed to respond to the request of the Union to extend the benefit of the scheme to the workmen in this dispute, the Union approached the Assistant Labour Commissioner (Central). During the joint discussion on 02.08.2013, the Management filed a written statement stating that the matter regarding the extension of scheme benefits to the workmen is taken up with Department of Space. However on 04.12.2013, the Management submitted that the benefits of Gang Labourers (Employment for Sporadic Types of Work) Scheme of Department of Space, Govt of India, 2012 granted to the gang labourers in Mahendragiri and LPSC cannot be extended to the workmen in this dispute as the same is formulated as per the direction of the Hon'ble CAT in respect of the 52 labourers only.

4. The Management filed a written statement denying the above allegations in the claim statement. Indian Space Research Organization(ISRO) is an organization under the Department of Space entrusted with research, development and application of Space Science and technology for the socio economic development of the nation. ISRO carries out its activities through its different centers and units situated throughout India. Vikram Sarabhai Space Centre(VSSC) is the lead center of ISRO where research and development activities

are carried out. VSSC is carrying out these activities through different entities/groups under it. Mechanisms and Vehicle Integration Testing Entity (MVIT) situated at Valiamala is one of such entity under VSSC. MVIT Stores of VSSC is engaging a few gang labourers from among the local residents for carrying out the sporadic nature of works such as loading/unloading, furniture shifting and other material handling jobs in MVIT, Valiamala. Gang labourers are being engaged on a day to day basis, whenever required. Every day Stores Division sends requisition to the CISF for the required number of gang labourers based on the requirements received from various divisions and also for the work in stores. CISF issues token in the name of a person for the entry of a group of gang labourers. The gang labourers are not appointed against any regularly sanctioned post. The doctrine of Privity of Contract envisages that the rights and obligations exist only between the parties to the contract and not outside the contract. During 2007-08 all the existing gang labourers engaged in VSSC were made members of Veli People's Labour Contract Co-operative Society Ltd. Thereafter they are engaged through the Society on contract basis. The gang labourers in MVIT did not form any society and they continued to be engaged on the basis of the token system. MVIT Stores of VSSC is not maintaining any separate name and address of the gang labourers. No muster roll or attendance register is maintained by the Stores for them. The payments to the gang labourers are made in the name of person to whom the entry pass is issued by CISF. The request of gang labourers for conferment of temporary status was examined by VSSC and the Department of Science. It was found that the gang labourers do not fulfill the conditions of grant of Temporary status under Casual Labourers (Grant of Temporary Status and Regularization) Scheme, 1993 and therefore the proposal was not agreed to. The scheme formulated in Liquid Propulsion Systems Centre (LPSC), another center of ISRO, was based on the Court directive specifically for engaging 52 gang labourers in LPSC and the same cannot be extended to the MVIT gang labourers as they were not parties to the litigation. The dictum laid down by the Hon'ble Supreme Court in **UOI Vs Vartak Labour Union**, 2011 (3) SCC 246, **Sathya Prakash Vs State of Bihar**, 2010 (4) SCC 179, **Secretary, State of Karnataka and others Vs Uma Devi and others**, 2006 (4) SCC 1 and **All India SC & ST Employees Association Vs Arthur Jeen**, (2001) 6 SCC 380 are relevant decisions in this case.

5. The Union filed replication against the written statement filed by the Management. The Management failed to answer all the crucial issues raised by the Union deliberately. The only grievance of the claimant Union and the workmen represented by them is that they had been denied regularization when their counterparts at Mahendragiri and Valiamala have been granted right of regularization as per the scheme called 'Gang Labourers (Employment of Sporadic type of Work) Scheme of Department of Space, Govt of India 2012. The Management failed to give any valid ground for not extending the benefits of the Scheme to the similarly placed workmen working with the Management. The list of 11 casual workers of the petitioner Union countersigned by the Assistant Stores Officer and Senior Stores Officer of MVIT, wing of VSSC is available to substantiate the claim of the Union. The decision of the Hon'ble Supreme Court in **Hussainbhai Vs Alath Factory Thozhilali Union**, 1978 (4) SCC 257 and in **Bhilwara Dugdh Utpadak Sahakari Sang Ltd Vs Vinod Kumar Sharma and others**, AIR 2011 SC 3546 is relevant in the facts and circumstances of this case.

6. After completion of the initial pleadings when the matter was posted for evidence of the Union, the Management filed an additional written statement with the approval of this Tribunal. In the additional written statement, the Management raised a preliminary issue regarding the maintainability of the industrial dispute. According to the Management, as per letter no.L-42011(14)/80-B.II.N dt.01.01.1981 the Ministry of Labour, Govt of India clarified that the establishments connected with the Department of Space and ISRO do not come under the purview of the Industrial Disputes Act, 1947. Since VSSC comes under ISRO, the Industrial Disputes Act, 1947 is not applicable to VSSC. The Department of Space vide its letter dt.17.01.1981 also confirmed the same. Even this Tribunal in ID no.11/2008 held that VSSC is not an industry in its award dt.09.03.2010. The gang labourers are not continuously engaged by the Management. MVIT Stores engages the gang labourers as and when there is work involving these workers. The Scheme formulated in LPSC, another center of ISRO was based on the court directive specifically for engaging 52 gang labourers in LPSC alone and the same cannot be extended to the MVIT gang labourers as they are not party to the litigation. No discrimination is shown against the claimants.

7. The Union filed a replication on the additional written statement filed by the Management. The Union strongly opposed the multiple written statements being filed by the Management. According to the Union, the orders produced by the Management are intended to deprive the legitimate rights of casual labour workmen. The said orders are in clear conflict with constitutional right of the workmen concerned, under Article 14, 19(1)(G) and 21 of the Constitution. The initial Scheme covered the 11 casual labour workmen engaged in MVIT whose cause for regularization is espoused by the Union in the above case. A copy of the Scheme which came into force from 01.08.2012 would show that it is made applicable to 63 male gang labourers including 11 persons in MVIT. There are no other gang labourers in MVIT other than the 11 workmen represented by the Union. There is no case for the Management that these 11 workers, out of whom

2 persons have expired during the pendency of the proceedings, are not the same persons who are covered by the original scheme dt.01.08.2012. Subsequently another scheme was brought by the Management excluding the 11 workers in MVIT. The new scheme mentioned the total number of eligible gang labourers as 52. It is also stated in Clause 2 of the Scheme that the same shall come into force w.e.f. 03.09.2012. The two changes made in the new Scheme dt.03.09.2012 are 1) the total number of beneficiaries are reduced from 63 to 52, deleting the 11 workers in MVIT and 2) changing the date of enforceability from 01.08.2012 to 03.09.2012. Even assuming (without admitting) that these two orders now produced by the Management are legally sustainable at the time of its issuance, the same cannot sustain the test of law as the same is against the judgment rendered by seven judges bench of Hon'ble Supreme Court of India in **Bangalore Water Supply Board** case. The award in ID no.11/2008 will not act as res Judicata, as claimed by the Management. The award is based on Central Govt Casual Labourers (Grant of Temporary Status Regulation Scheme) 1993 whereas the claim raised in this industrial dispute is on the basis of the Scheme formulated in 2012 exclusively for the Management. It is basic law that any number of disputes can be raised by a Union, if there is any change in the demands/claim raised, even if an earlier demand/claim was adjudicated and decided against the Union. The reliance placed on **PRL Vs K.G.Sharma** is not in any way helpful to the Management as the same was decided on the materials on record and also on the finding by the Hon'ble Supreme Court that the outcome of the research work have never been sold. The Hon'ble Supreme Court also held that the knowledge acquired through research by PRL is not marketable or has no commercial value. The Management has utilized the products born out of its research and development in this case towards commercial purposes. In the year 2014-15, the income generated was to the tune of more than Rs.1860.71 Crores. The term sovereign and the sovereign functions are attempted to be given meanings going beyond the well founded limits established by the Hon'ble Supreme Court in **Bangalore Water Supply Board** case (Supra). In **Bangalore Water Supply and Sewerage Board** case (Supra) the Hon'ble Supreme Court evolved certain tests. The Hon'ble Supreme Court held that the employer is the institution and the employees are scientists, para scientists and other personnel. It also held that its discoveries are valuable contribution to the wealth of the nation since such discoveries can be sold for heavy price in the industrial or other markets. Even though a research institute may be a separate entity discontented from the many industries which funded the institute itself, it can be regarded as an organization propelled by systematic activity, modeled on co-operation between employer and employee and calculated to throw up discoveries and inventions and useful solutions which benefit individual industries. It follows that research institutes, albeit run without profit motive, are industries. The dispute under adjudication is now confined to implementation of the Scheme in respect of the 9 workers in MVIT who were deprived of the benefits of the Scheme.

8. The Management filed second additional written statement against the replication filed by the Union. The rule of natural justice demands that the Management can file additional written statements, if the circumstances warrants the same. The letter dt.01.01.1981 was issued by the Ministry of Labour, Govt of India which is the nodal agency for looking after the welfare of the labourers. The letter dt.17.01.1981 relied on by the Management is issued by the Joint Secretary, the Govt of India, Department of Space clarifying the Govt of India order dt.01.01.1981. The Gang Labourers (Employment for Sporadic types of work) Scheme of Department of Space, Govt of India 2012 which came into force w.e.f. 03.09.2012 is being implemented by the department in obedience to the directions of the Hon'ble CAT, Madras Bench in its order dt.09.03.2010 in OA no.455/2009 filed by the 28 gang labourers engaged in LPSC, Mahendragiri which was subsequently upheld by the Hon'ble High Court of Madras vide judgment dt.14.03.2011 in W.P.no.19634/2010 and the Hon'ble Supreme Court of India vide judgment dt.29.07.2011 in SLP (C).no.19200/2011. The gang labourers engaged in LPSC, Mahendragiri (now IPRC, Mahendragiri) were the applicants and they were only the beneficiaries of the Scheme. Subsequently the benefit of the above said scheme was extended to the gang labourers engaged in the Head Quarters of LPSC at Valiamala also based on the directions of Hon'ble CAT, Ernakulam Bench vide its order dt.18.08.2011 in O.A.no.878/2010, filed by them. The gang labourers engaged in MVIT/VSSC, Valiamala were not at all parties of any of these litigations. There is no Scheme covering 63 gang labourers including 11 persons engaged in MVIT/VSSC. The applicants in O.A. no.455/209 had filed a Contempt Application no.101/2011 before the Hon'ble CAT during 2012. The Hon'ble Tribunal directed to file a compliance report. In the meantime a draft scheme was made based on the Department of Personal & Training Scheme of 1993 and sent to Department of Space for vetting. As there was delay in getting the vetted scheme, the department was forced to file the draft scheme before the Hon'ble CAT on 25.07.2012. Said draft scheme was attested by the dealing officer, Sri.K. Suresh, Sr. Administrative Officer, LPSC, Valiamala. It is a copy of this draft that is produced by the Union before this Tribunal to support their case. In the hearing held on 26.07.2012, the Hon'ble CAT granted time upto 04.09.2012 for implementing the orders. The above scheme was implemented in its final form, as approved by the Department of Space. A copy of the communication along with the Scheme was submitted before the Hon'ble CAT, Chennai and on the basis of the submission, the Hon'ble CAT closed the Contempt application. The activities carried on by the Department of Space are not coming under the definition of industry and are thus specifically exempted by the provisions contained in the ID Act. The Hon'ble Supreme

Court of India in **Bangalore Water Supply and Sewerage Board Vs A. Rajappa and others**, AIR 1978 SC 548 held that the Govt might restructure the definition of “industry” by suitable legislative measures. Accordingly the Govt of India had decided to redefine the term ‘industry’ and while doing so, it was proposed to exclude from the scope of this expression certain institutions such as hospitals, educational institutions, scientific and research organizations’ etc. It was also proposed to exclude sovereign functions of Govt including activities relating to atomic energy, space and defence research from the purview of the term ‘industry’. The decision pronounced by the Hon’ble Supreme Court regarding identically placed workers is not applicable to all cases unless specifically directed to be so. In **State of Rajasthan and others Vs Daya Lal and others**, C.A. no.486/2011 the Hon’ble Supreme Court held that one time scheme for regularization of irregular or part time appointments cannot be a model for repetition. The claim of the Union that the Management has utilized the products born out of its research and development towards commercial purposes and income generated out of this, is not true and is untenable. ISRO is a fully funded organization by Govt of India. The products such as Remote Sensing Data, Communication Transponders and Launch Services are marketed by Antrix Corporation Ltd., a wholly owned Govt of India Company and not by ISRO. Govt of India has accorded a very special status and conferred various special powers and privileges to the Department of Space vide notification dt.18.07.1972 issued by the Hon’ble President of India in exercising of powers confirmed by Clause (3) of Article 77 of the Constitution of India and the Rules made thereunder amending the Govt of India (Allocation of Business) Rules, 1961 as the activities carried out by the department are relatable to the “Sovereign Functions” of the Govt.

9. The Union filed IA no.65/2016 pleading to accept the additional list of witnesses in the industrial dispute. The Union also filed another IA no.66/2016 requesting to issue summons to the signatory Sri.K.Suresh, Sr. Administrative Officer to produce the original and certified copies leading to the Scheme dt.01.08.2012. The Union further requested that the entire file containing the details regarding the evolution of the Scheme and exclusion of the 11 workers represented by the Union are to be called for through the witnesses. After hearing the parties, this Tribunal vide its order dt.26.05.2017 dismissed both the IAs. The Management filed IA no.141/2016 seeking to admit the 2nd additional written statement filed by them. This Tribunal vide order dt.26.05.2017 allowed the IA. The Union filed IA no.142/2016 seeking to direct the Management to produce the entire file including the file notes containing two orders with the signatures of the concerned officers of ISRO regarding the regularization of the gang labour workers, Gang Labourers (Employment of Sporadic type of work) Scheme of Department of Space, Govt of India, 2012 offering benefits of the Scheme to 63 workers including the 11 workmen represented by the applicant Union. After hearing the parties, this Tribunal vide its order dt.26.05.2017 allowed the IA and directed the Management to produce the documents or to file an affidavit explaining the reasons for nonproduction. The Management did not produce the documents called for however filed an affidavit stating that the files called for is not available with the Management and hence they are not in a position to produce the same. The affidavit filed by the Management is accepted by this Tribunal.

10. The Union examined WW1 and marked Exbts.W1, W1(a), W2 to W5 through him. The Management examined MW1 and marked Exbts.M1 to M6 through him.

11. The issues to be adjudicated are ;

1. Whether the industrial dispute is maintainable ?
2. Whether the 11 workmen represented by the Union working in MVIT, Valiamala is eligible to be extended the benefits of Gang Labourers (Employment of Sporadic types of work)scheme of Department of Space, Govt of India, 2012 ?
3. Relief and cost?

12. Issue no.1

According to the learned Counsel for the Management, Indian Space Research Organization (ISRO) under the Department of Space is a Govt of India establishment for promoting the development and application of space science and technology for socio economic benefits of the country. ISRO has many centers across the country. Liquid Propulsion System Centre (LPSC) is one of the lead center of ISRO. ISRO does not carry out any activity in the nature of business, trade, undertaking, industry and handicraft. Hence it does not come within the ambit of industry as defined U/s 2(j) of the Industrial Disputes Act and as such ID Act is not applicable to ISRO or any of its units. Keeping in view the complexity and specialized nature of work undertaken by the Department of Space, the department has been empowered by the Govt with special powers by virtue of Presidential notification dt.18.07.1972. While deciding ID no.11/2008 the Central Government Industrial Tribunal-cum-Labour Court considered the question whether ISRO and its centers will come under the purview of Industrial Disputes Act. In that case, the dispute was raised by 11 gang labourers engaged in Vikram Sarabhai Space Centre(VSSC). After considering the facts and circumstances of the case, this Court held that VSSC is not an industry within the meaning of Sec 2(j) of the ID Act. A

true copy of the said award dt.09.03.2010 is produced and marked as Annexure R2. Ministry of Labour vide communication no.L-42011(14)/80-B.II.N dt.01.01.1981 has clarified that establishments connected with Department of Space and ISRO do not fall under the definition of the term 'industry' in the ID Act, 1947. A copy of the said communication is produced and marked as Annexure R3. Based on the above clarification, Department of Space vide OM no.7/6(1)/79-I dt.17.01.1981 declared that the provisions of ID Act, 1947 will not be applicable to the centers of ISRO. A copy of the said OM is marked as Annexure R4. The employees of ISRO are governed by service rules of Central Govt and for any grievance, they have to approach Central Administrative Tribunal.

13. The learned Counsel for Management relied on the decision of this Tribunal dt.09.03.2010 in ID no.11/2008 to argue that ISRO will not come within the definition of 'industry' U/s 2(j) of Industrial Disputes Act. In that case the Union espoused the cause of 11 casual workers working in VSSC in Trivandrum. The workers claimed bonus, medical and canteen facility. The Union claimed that these 11 workers have been working for the last 20 years and they have acquired temporary status and hence they are entitled for the benefits. The claim of the Management was that ISRO is not an industry and hence will not come within the ambit of Industrial Disputes Act. VSSC is part of ISRO where research and development activities of launch vehicles and allied technologies are carried out. Relying on the decision of Hon'ble Supreme Court in **Physical Research Laboratory Vs K. G. Sharma**, 1997 (2) LLJ 625 and the communication of Ministry of Labour to the Controller of Space Center, Sreeharikotta, this Tribunal held that VSSC will not come within the definition of 'industry' U/s 2(j) of Industrial Disputes Act. Sec 2(j) of the Industrial Disputes Act reads as follows ;

"Industry means any systematic activity carried on by co-operation between an employer and his workman (whether such workman are employed by such employer directly or by or through any agency including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature, whether or not), (i). Any capital has been invested for the purpose of carrying on such activities; (ii). Such activity is carried on with a motive to make any gain or profit and includes a).....b) Any activity relating to promotion of sales or business or both carried on by an establishment."

The Hon'ble Supreme Court in **Bangalore Water Supply & Sewage Board Vs A. Rajappa**, AIR 1978 SC 548 clarified the scope of the definition of "industry" as,

A) Where there is a 1) systematic activity 2) organized by co-operation between employer and employee, the direct and substantial element being commercial, 3) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes, prima facie there is an industry in that enterprise.

B) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

C) The true focus is functional and the decisive test is the nature of the activity with the special emphasize on the employer-employee relationship. If the organization is a trade or business, it does not seems to one because of the philanthropy animating the undertaking.

In view of the above ruling, the scope of the definition of industry is settled once for all.

The case of the Management is that ISRO is a research institution for promoting the development and application of Space Science and Technology for the socio-economic benefits of the country and also providing valuable service to the nation. The Department has a primary objective of providing uninterrupted space services to assist in all round development of the nation. In **Bangalore Water Supply** case (Supra) the Hon'ble Supreme Court clarified the position of a research institute viz the definition of 'industry' U/s 2(j) of Industrial Disputes Act, 1947 as follows;

"Does research involve collaboration between employer and employee? It does. The employer is the institution, the employees are scientists, para scientists and other personnel. Is scientific research services? Undoubtedly it is. Its discoveries are valuable contributions to the wealth of the nation. **Such discoveries may be sold for a heavy price in the industrial or other markets.** Technology has to be paid for any technological inventions and innovations may be patented and sold. In our scientific and technological age nothing has more case value, as intangible goods and invaluable services than discoveries. For instance, the discoveries of Thomas Alva Edison made him fabulously rich. It has been said that his brain had the highest cash value in history for he made the world vibrate with the miraculous discovery of recorded sound. Unlike most inventors, he did not have to wait to get his reward in heaven; he received it munificently on this gratify and grateful earth, thanks to the conversion of his inventions into money aplently. Research benefits industry. Even though a research institute may be a separate entity disconnected from the many industries which funded the institute itself, it can be regarded as an organization, propelled by systematic activity, modeled on co-operation between employer and employee and calculated to throw up discoveries and inventions and useful

solutions which benefit individual industries and the nation in terms of goods and services and wealth. **It follows that research institute, albeit run without profit motive, are industries.**”(emphasis added)

The Hon'ble Supreme Court considered the above test in the facts and circumstances of **Physical Research Laboratory Vs K. G. Sharma** (Supra) and held that Physical Research Laboratory will not come within the definition of industry in Sec 2(j) of the Industrial Disputes Act.

14. ISRO, as rightly pointed out by the learned Counsel for the Management, is involved in research and development of Space technology. However in the year 1992, Govt of India, Dept. of Space, floated a company called M/s.Antrix Corporation as a marketing arm of ISRO for promotion and commercial exploitation of space products, technical consultancy services and transfer of technologies developed by ISRO. ISRO launched 239 satellites for 28 different countries as on October 2018. The commercial launches for foreign nations were negotiated through M/s.Antrix Corporation, the commercial arm of ISRO. The revenue earning of the Corporation as on 31.03.2017 was Rs.1,98,830 lakhs and Rs.2,03,933.16 lakhs as on 31.03.2018. Further ISRO has recently launched a company called M/s.New Space India Ltd (NSIL) to commercialize space products and satellite development deals. The deal for launch of 13 U.S. satellites along with Cartosat-3 recently was negotiated by the new company, according to reports. It is also reported that the recent launches of foreign satellites were negotiated and formalized by M/s.NSIL. From the above it is very clear that the test laid down by the Hon'ble Supreme Court in **Bangalore Water Supply** case, (Supra) above is fully applicable to the present case and ISRO and will come within the definition of 'industry' U/s 2(j) of Industrial Disputes Act. All activities relatable to Sovereign functions of the government carried on by the Department of Space are excluded from the definition of industry U/s 2(j) of the ID Act. However when the commercialization of the research products are taken up, the Management cannot claim exclusion as clarified by the Hon'ble Supreme Court in the above referred case. It is seen that this issue was not considered by the Tribunal in ID No.11/2008.

15. The learned Counsel for the Management also argued that the Ministry of Labour & Employment, Govt of India has clarified vide communication No. L-42011(14)/18-BII.N dt.01.01.1981 that establishment connected with Department of Space and ISRO do not fall within the definition of term 'industry' in the Industrial Disputes Act, 1947. Consequently provisions of various social welfare laws like ID Act, Factories Act etc., are not applicable to the units of ISRO. Based on the above clarification by Ministry of Labour & Employment, Department of Space vide OM no.7/6(1)/79-I dt.17.1.1981 declared that the provisions of ID Act, 1947 will not be applicable to the centers of ISRO/Department of Space. The Counsel also argued that the employees of ISRO are governed by service rules of Central Govt employees and in the event of any grievance, they will have to approach Central Administrative Tribunal. The legal validity of the Annexure.R1(c) dt.01.01.1981, communication issued by Ministry of Labour, Govt of India and Annexure.R1(d) issued by Dept. of Space on 17.01.1981 were considered by the Hon'ble High Court of Kerala in RP no.56/2017 and vide its order dt.16.02.2017 held that,

“First of all this Court is of the view that any communication issued by the union Government will not bar any industrial adjudicator to determine an activity is industry or not, in accordance with the definition of 'industry' under Industrial Disputes Act. At the best, those communications can be treated as a piece of evidence for the purpose of understanding the nature of the activity. Therefore, this Court is of the view that while **deciding the scope of industrial dispute, the industrial adjudicator will have to decide the activities of ISRO independently, uninfluenced by such communications and also by considering the nature of the activities.**”

In view of the above decision by the Hon'ble High Court the issue whether ID Act, 1947 is applicable to ISRO is to be decided independent of the circulars issued by the Govt of India in this regard. This Tribunal considered all the above issues in ID No.20/2017 and vide order dt.20.11.2019 held that Industrial Disputes Act, 1947 is applicable to ISRO. The issue whether ISRO/VSSC will come within the definition of industry was also examined by this Tribunal in **ID no.27/2013** and **ID no.35/2018** and by a common order dt.07.04.2021 this Tribunal found that ISRO/VSSC will come within the definition of "industry" in the Industrial Disputes Act, 1947.

Having considered by the issues raised by the learned Counsel on either side and also the nature of work rendered by the Management organization, I am of the considered view that ISRO/VSSC will come within the definition of Sec 2(j) of the ID Act. Hence the issue is answered in favour of the Union and against the Management.

16. Issue no.2

Indian Space Research Organization is an organization under the Department of Space entrusted with research development and application of Space Science and technology for the socio economic development of the nation. ISRO carries out its activities through different centers and units situated throughout India. Vikram Sarabhai Space Center is the lead center. It has got its units such as LPSC, Mahendragiri and

Valiamala and Mechanisms and Vehicle Integration Testing (MVIT) entity situated at Valiamala. All these units engaged casual employees called gang labourers for their sporadic type of works. The gang labourers engaged in LPSC, Mahendragiri approached the Hon'ble CAT, Madras Bench in O.A. no.455/2009 and the Hon'ble CAT vide its order dt.09.03.2010 directed the Management to come up with a scheme for partially regularizing the service of the gang labourers. The Management challenged the order of the Hon'ble CAT, Madras Bench before the Hon'ble High Court of Madras in W.P no.19634/2010 and the Hon'ble High Court vide its judgment dt.14.03.2011 dismissed the writ petition and confirmed the order of the Hon'ble CAT, Madras Bench. The Management challenged the said order before the Hon'ble Supreme Court in SLP (C) no.19200/2011 and the Hon'ble Supreme Court dismissed the same vide judgment dt.29.07.2011. When the Union moved the Hon'ble CAT, Madras Bench on contempt, the Management came with a scheme called 'Gang Labourers (Employment of Sporadic Type of Work) Scheme of Department of Space, Govt of India 2012'. The Scheme came into force w.e.f. 03.09.2012. The benefit of the aforesaid scheme was extended to the gang labourers engaged in Head Quarters of LPSC at Valiamala based on the direction of the Hon'ble CAT, Ernakulam Bench vide its order dt.18.08.2011 in O.A. no. 878/2010. According to the learned Counsel for the Union, the gang labourers engaged in LPSC, Mahendragiri and Valiamala are doing the same work as that of the gang labourers in MVIT, Valiamala and there is absolutely no reason why the gang labourers working in MVIT, Valiamala shall be discriminated while partially regularizing the services under 2012 Scheme. According to the learned Counsel for the Management, in view of the nature of work done by the gang labourers, it is difficult to identify the 11 workers involved in this industrial dispute, whose cause is espoused by the Union. The learned Counsel for the Union relied on Exbt.W1 and Exbt.W1(a) and argued that the list of casual labourers are maintained by the Management and Exbt.W1(a) issued by the Senior Purchase and Store Officer to the Administrative Officer VSSC would clearly indicated that the Management is having the list of casual labourers working at MVIT Stores, Valiamala. The learned Counsel for the Union pointed out that the casual workers working in LPSC, Mahendragiri and Valiamala are doing the same nature of work as that of the gang labourers working in MVIT, Valiamala. He further pointed out that originally the 11 workmen working in MVIT, Valiamala were also included under the Scheme and for some reason these 11 employees were excluded from the final Scheme. He relied on the copy of the Scheme which was supposed to be implemented w.e.f. 01.08.2012. In that Scheme the 11 employees working in MVIT was also included. However in the final Scheme which was implemented from 03.09.2012, the 11 workmen in this dispute were excluded by the Management. According to the learned Counsel for the Management, the Scheme relied on by the Union was only a draft scheme produced before Hon'ble CAT, Madras Bench in view of the contempt petition filed by the Union therein. It was not an approved Scheme. He produced a copy of the approved scheme and also the communication no.12021/6/2012-I dt.03.09.2012 issued by the Department of Space. In the final Scheme approved by the Department of Space, the 11 labourers involved in this dispute was excluded and the effective date of implementation is made from 03.09.2012. According to the learned Counsel for the Management, the said Scheme is applicable only to the Unions which had approached the Hon'ble CAT, Madras Bench and Ernakulam Bench and it is not applicable to the gang labourers engaged in the MVIT, Valiamala. The Management has no case that the 52 gang labourers are doing some work that is different from that of the 11 gang labourers working in MVIT, Valiamala. The only ground pleaded by the Management for not extending the benefit of the Scheme to the workers in this industrial dispute is that they were not party to the proceedings before CAT.

17. As per the provisions of Gang Labourers (Employment for Sporadic type of work) Scheme of Department of Space, Govt of India 2012, the Scheme is applicable to 52 gang labourers performing manual sporadic type of works in Mahendragiri and Valiamala, units of LPSC under Indian Space Research Organization(ISRO). It shall not be applicable to gang labourers engaged in other centers. All the gang labourers who are in engagement on the date of issue of the Scheme and who have rendered continuous service of atleast one year, which means that they must have been engaged for atleast for a period of 206 days, would be employed on temporary basis till they attain the age of 60 years. Such temporary employment would be without reference to the creation/availability of regular erstwhile group 'D' post. Employment on temporary basis would not involve any change in duties or responsibilities of gang labourers. Engagement of gang labourers will be on daily rate of pay. There shall be no age limit prescribed for employment on temporary basis. They are entitled for the minimum of pay band for the erstwhile group 'D' employees. They are also entitled for leave as per the scheme provisions. Two out of every 3 vacancies in erstwhile group 'D' cadres, if available for operation in respective units where the gang labourers have been working would be filled up on regular basis from among the gang labourers employed on temporary basis. In case of regularization of gang labourers employed on temporary basis, no substitute gang labourers will be engaged. The learned Counsel for the Management pointed out that it is the responsibility of the Union to establish the fact that the workmen worked for 206 days before employing him on temporary basis. The learned Counsel relied on the decision of the Hon'ble Supreme Court in **Krishna Bhagya Jala Nigam Ltd Vs Mohammed Rafi**, 2009 KHC 5276. It is a case in which the Hon'ble Supreme Court considered the burden of proof regarding the continuous service as defined in Sec 25B of the ID Act. The Hon'ble

Supreme Court held that the burden of proving whether a particular person worked for 240 days is on the person who makes the claim. In this particular case the issue involved is whether the provisions of the Scheme evolved by the Department of Space in respect of two of its units can be extended to similarly placed employees in another unit of VSSC. The learned Counsel for the Union relying to the decision of the Hon'ble Supreme Court in **UOI and others Vs M/s.N. S. Rathnam and Sons**, 2015 KHC 4488 argued that equal protection under Article 14 of the Constitution means the right to equal treatment in similar circumstances, both in the privileges conferred and in the liabilities imposed. The Hon'ble Supreme Court held that if two persons or two sets of persons are similarly situated/placed, they have to be treated equally. The Hon'ble Supreme Court held that "What follows from the above is that in order to pass the test of permissible classification two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differential which distinguishes persons or things that are grouped together from others left out of the group and (2) that, that differential must have a rational relation to the object sought to be achieved by the statute in question. If the Govt fails to support its action of classification on the touchstone of the principle whether the classification is reasonable having an intelligible differentia and a rational basis germane to the purpose, the classification has to be held as arbitrary and discriminatory". As already pointed out, the Management has no case that the labourers involved in this dispute are doing something different from that of the labourers who are already brought under the Scheme. Hence there is absolutely no reason why the workmen involved in this dispute shall be discriminated while extending the benefits of the Scheme already approved by the Govt to the workmen involved in the present industrial dispute. The learned Counsel for the Union also relied on the decision of **Hari Nandan Prasad and another Vs Employer, I/R to Management of FCI and another**, 2014 KHC 4096 wherein the Hon'ble Supreme Court held that "Non regularization of appellant no.2, while giving the benefit of that Circular dt.06.05.1987 to other similarly situated employees and regularizing them would, therefore, be clearly discriminatory". The Hon'ble Supreme Court in many cases pointed out that the Govt shall not make each employee to run around for the benefits which are already ordered by the Hon'ble Court to a similarly placed employee or group of employees. When the Scheme is extended to the labourers in this industrial dispute all the conditions stipulated therein are applicable to the workmen. Therefore the issue whether a particular employee will be eligible as per the Scheme is to be decided as per the terms of the Scheme which is not the subject matter of this industrial dispute.

Considering the facts, circumstances and evidence, I am inclined to hold that the demand of the Union for extending the benefit of Gang Labourers (Employment for Sporadic type of work) Scheme of Department of Space, Govt of India 2012 granted to the gang laborers in Mahendragiri and Valiamala to the 11 gang labourers in MVIT, Valiamala is fully justified.

18. Issue no. 3

It is already found in issue no.2 that the 11 labourers involved in this industrial dispute are entitled for the benefits of the Gang Labourers (Employment for Sporadic type of work) Scheme of Department of Space, Govt of India 2012. Hence the labourers shall be entitled the benefit of the said Scheme.

19. Hence an award is passed holding that the 11 gang labourers working in MVIT, Valiamala are also entitled for the benefits of Gang Labourers (Employment for Sporadic type of work) Scheme of Department of Space, Govt of India 2012 and the same benefits shall be extended to them.

The award will come into force one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and passed by me on this the 31st day of May, 2022.

V. VIJAYA KUMAR, Presiding Officer

APPENDIX

Witness for the Workman:-

WW1 -Sri.Y. Francis, dt.26.02.2016

Witness for the Management:-

MW1 -Sri.C. S. Radhakrishnan Nair, dt.20.09.2019

Exhibits for the Workman:-

W1 -List of casual labourers working at MVIT Stores, Valiamala

W1(a) - An official document dt.11.07.2007 evidencing the engagement of the 11 workers

W2 - Scheme for employment of gang labourers engaged for sporadic type of work in LPSC, Mahendragiri and Valiamala of Department of Space, Govt of India on temporary basis

- W3 - Petition dt.05.07.2013 submitted by the Union on behalf of the 11 casual labourers to the Asst. Labour Commissioner(C), Trivandrum
- W4 - Letter dt.30.07.2013 issued by the Head, Personnel & General Administration to the Asst. Labour Commissioner(C), Trivandrum
- W5 - Failure of conciliation report sent by the Asst. Labour Commissioner(C), Trivandrum to the Govt.

Exhibits for the Management:-

- M1 - True copy of letter dt.17.01.1981 issued by Joint Secretary, Dept. of Space, Govt of India
- M2 - True copy of letter dt.01.01.1981 issued by the Ministry of Labour, Govt. of India
- M3 - True copy of Award dt.09.03.2010 of this Hon'ble Tribunal in I.D. No.11/2008
- M4 - Communication dt.18.07.2013 issued by Purchase & Stores Officer of the Management to Asst. Commandant of CISF to give entry pass to Sri.B. Mohanan and 10 labourers
- M5 - Communication dt.27.11.2014 issued by Purchase & Stores Officer of the Management to Asst. Commandant of CISF to give entry pass to Sri.Pushpangadan Nair and 10 labourers
- M6 - True copy of the notification dt.18.07.1972 issued by the President of India